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No 4

PERPETUAL WAR, THE POLICY OF MR. MADISON.

BEING A CANDID EXAMINATION OF HIS LATE MESSAGE TO CON-
GRESS, SO FAR AS RESPECTS THE FOLLOWING TOPICS...VIZ.

THE PRETENDED NEGOTIATIONS FOR PEACE...THE IMPOR-
TANT AND INTERESTING SUBJECT OF A

CONSCRIPT MILITIA....

AND

THE ESTABLISHMENT OF AN IMMENSE STANDING ARMY OF
GUARDS AND SPIES, UNDER THE NAME OF

A LOCAL VOLUNTEER FORCE.

*"Tum "Jacobus Madison secundum Prases"...gravior remediis quam de-
licta erant, euarumque legum auctor idem, ac subversor que armis tuebatur,
armis amisit."*

TACITI ANNALIVM LIB. III.

LIBERALLY TRANSLATED

"Then James Madison, a second time President, adopted a remedy for the
wrongs of our seamen, infinitely more injurious to them than the evils which
they suffered....he ordered out the militia, in contempt of that very Constitution
of which he was one of the principal framers. In short, whatever he attempted
to vindicate by arms, by arms he lost."

BY A NEW-ENGLAND FARMER,

AUTHOR OF A LATE PAMPHLET, ENTITLED, "MR. MADISON'S WAR."

BOSTON:

Printed by Chester Stebbins.

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1812.

PERPETUAL WAR

THE POLICY OF MR. MADISON

CONSTITUTIONAL PRINCIPLES

A SOCIAL CONTRACT THEORY

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INTRODUCTORY REMARKS.

TO THE PEOPLE OF NEW-ENGLAND, NEW-YORK,
NEW-JERSEY, AND DELAWARE.

HOWEVER much to be regretted by every friend to commerce, and civil liberty, must be the re-election of Mr. Madison, still it is a most *cheering* and *consolatory* reflection, that the struggle has manifested an energy, an intelligence, a spirit of concord and union, a magnanimous disposition to sacrifice party feelings, and personal considerations, in the citizens of the commercial states, which is unexampled in the history of this country. It was indeed to be feared, that no pressure, however great, no sufferings, however severe, would detach men from those chains of party with which they had been so long bound. But we are most happily undeceived; a sense of common danger, a conviction of common interest, and of the absolute necessity of union for relief from oppression, snapped asunder the bonds of faction.— Mutual condescension, mutual consultation soon obliterated the memory of past distinctions, (which after all were merely nominal,) and we now find, with the exception of the dependents upon government, and those under their influence, but one great and united people, from Maine to Delaware.

It *ought* indeed to be so; for, from Maine to Delaware we have one common interest, and that is, the

preservation of Commerce, which from Delaware southwards, they are determined to *destroy*. Still men do not always *perceive* their interest. But in this case, they could not shut their eyes; it was like "Heaven's own lightning," it flashed conviction upon those who were stone blind.

Five years successive commercial restriction, was found ineffectual; it made us grow leaner to be sure, but we were strong and able to survive it. Our persecutors had not patience to endure our lingering death; they therefore got up the guillotine of a maritime war, to cut off our heads at a stroke.

This last act of desperation, has accomplished our wishes; it has opened the eyes of the people, and notwithstanding the reelection of Mr. Madison, not *in vain*. If we are as firm and resolute in the pursuit of our purposes, as moderate and conciliatory as we have hitherto been; if we continue to sacrifice to the attainment of peace and prosperity, our party passions, we are certain of success. Let our political enemies triumph in their partial victory; let them attempt to undervalue our courage, our opinions and our importance; we shall shew them in the next Congress, that no government can wage an unnecessary war against the sentiments and interests of the people.

We predicted this change, as did many others, six months ago, in the pamphlet, entitled "Madison's War." We advised the people to despise the anti-republican, despotick opinion, that the citizens have no right to discuss the merits of a war, after it is declared. We recommended a constitutional resistance, a resistance at the polls. The people have done so; and what is the glorious and unexampled result?

Never since the Declaration of Independence, has such an union been witnessed. In the lower House of Congress, *which alone* could have been effected in so short a time by popular elections, we shall probably have a peace majority.

The present prospect is, that not one member of Congress, from Maine to Delaware, will be in favour of the war.

In Massachusetts, at no period of its history, has it ever enjoyed so united a delegation. Its voice will now have, as it ought to, its due weight. Let us examine this respectable power, which has risen up as it were by magick, or by the finger of Heaven, against a daring and headstrong administration.

These northern and middle states, who are now united in opinion, possess 3,000,000 of inhabitants, considerably more than did the whole United States at the time of the Declaration of Independence.— They are a body of freemen, distinguished for their industry and virtue. They are the owners of nearly two third parts of all the tonnage of the United States, and furnishes, probably three fourths of all the *native seamen*. They are totally opposed to a war for the privilege of protecting *British seamen* against their own sovereign. They know, from their own experience, that this subject of impressment is a mere instrument, wielded by men who are utterly indifferent about the sufferings of the sailors or the merchants.

The display of the true principles, upon which this subject ought to be considered, is the main object of the following Essays.

We are aware that the friends of administration, (and some few who ought to know better the rights

and duties of a citizen,) with uncommon pretensions to patriotism, have bridled themselves in with a haughty and censorious air, when they have read these essays, and have thought to condemn them, and to render the author odious, by representing him as supporting the claims of Great-Britain, and as abandoning the rights of America.

It is a vulgar clamour, which the author heeds not, he has no popularity to seek, and he fears not for the reputation of his integrity, with the wise and good; but as such a clamour may lead feeble minds to read with distrust, and to weigh with uneven scales, it may not be amiss to say a word or two upon this subject.

Is morality, when applied to questions between nations; of a different character, and founded on different principles from what it is, when applied to individuals?

Is man an infallible being? or, if he errs, is he never to turn from the error of his way? is he never to examine the rectitude of his OWN principles? or, if convinced of his error, is he never to confess it, and alter his conduct; but must his pride prompt him to persevere in wrong doing? If, moreover, he becomes satisfied that his *interest* as well as his *duty* require a change of conduct, must he still adhere to his errors?

Can not a *nation* do wrong? do we not contend that Britain has *often* done so? and is it impossible that America should SOMETIMES partake of human infirmities?

And if a nation does wrong, must its citizens defend even its errors? Must they spill their blood, and exhaust their treasure, and lose their liberties, rather

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than expose the *national faults*? But if the doctrine be true, that you cannot discuss such a question freely and shew the mistakes or the misconduct of your own country, the people will go on blindfolded, and will contend with honest, but mistaken zeal, for principles which if they had fully understood, they would have shuddered at supporting.

I have now given to my adversaries the most favourable side of the argument for them. But the question is not whether *our country* is in the wrong, but whether a few men in *power and place*, men whose power thrives by war, whose salaries are unaffected by it, cannot be in the wrong? The *country* is opposed to the war, for the question of impressment. The *country* knows that it is a question grossly exaggerated, not worthy of such sacrifices. The *country* does not wish to protect British seamen, nor to deprive Great Britain of her natural defence.

But my last, and most complete justification is, that in my opinion, it would be against *our interest, as a nation*, and against the *interest of the seamen especially*, to gain the question in dispute. The moment our flag shall be a *complete asylum* to British seamen, under which they will be free from ALL search, 100,000 of them would find the way to our ports, reduce the wages of our native seamen, or send them about our streets to beg. It would be, in my opinion, the most destructive policy which could be adopted.

I will then ask, whether a man may not patriotically oppose a pretension of his own country, which he thinks will be essentially injurious to it?

I shall conclude, by quoting the words of an eminent politician, who wrote a century ago. "If

therefore, said he, in future times, it shall be visible, that some men, to build up their own fortunes, are pushing at their country's ruin, good patriots must then exert all their virtue, they must reassume the *courage* of their *ancestors* ; but chiefly they must sacrifice to the publick, all their *ancient animosities* ; they must forgive one another ; it must no more be remembered of *what party* any man was ; it being sufficient to enquire whether he always acted honestly. At such a time, the *best men* of *both sides*, if the *name of party* still remains, must shake hands together, with a resolution to withstand the subtle and diligent enemies of the peace and prosperity of the country. In such a juncture, not only the best men of all parties must be taken in, but we must be angry with no sort of men, who will unite against the common enemies of our commerce and peace."

Davenant's Essay on the Duty of Private Men, &c.

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MR. MADISON'S MESSAGE.

NO. I.

FOREIGN AND CIVIL WAR RESOLVED UPON!

BEFORE we can have the requisite time, and leisure to express, and display the profound and awful impressions, which have been made upon us by this unparalleled document—Before we shall be able to strip this message of that almost impenetrable cloud, with which the present Chief Magistrate knows how to envelope the most alarming designs, and projects—Before we display, that cold, relentless, inflexible, and audacious spirit, which seems to consider the sufferings and distresses of a whole people as mere political pastime—which regards the loss of armies, and the destruction of thousands of our fellow men as trifling incidents in the game, which it has pleased certain sportsmen to play, I think it may be well to give to the publick in a concise form, more intelligible than the message was designed to be, the leading principles, positions, and opinions, which it has pleased Mr Madison to advance.

I am well aware, that many good, well meaning men in reading this message will be carried away at first with the amicable, generous and noble professions of its author—It is precisely the art of appearing to be what one is not—of assuming virtues and principles which are foreign to our character—of hiding and sedulously and artfully concealing our designs, which constitutes that dangerous talent that has rendered so many men the scourges of the country in which they were born—It is only by stripping

them of this disguise, by comparing carefully their conduct with their professions, that we can ascertain the real merit or demerit of men—we mean to attempt this difficult task, though conscious of our want of many of the qualifications necessary to its full and able execution.

The first and most important idea which the Message presents, and which runs through, and forms a distinguishing feature in it, is that the WAR, however disastrous—however burdensome, however fruitless, however hopeless and desperate, is to be not only persevered in, but more expensively, and more ferociously carried on.

Every paragraph is so expressed—every thought is so modelled—every fact is so coloured, presented or moulded, as to bring the mind to the necessity of waging this unnecessary and ruinous war, for aught we see, ad infinitum.

No art which could have a tendency to inflame the passions—No motive, which could excite the pride, the cupidity or the vengeance of men has been overlooked or left unurged.

We are then in the first place to consider this Message as an unequivocal, and bold declaration that *this war*, notwithstanding the submission of Great Britain and her repeal of her orders in Council, must and shall be continued with increased expense, probably increased disasters, and with the certainty of ultimate failure.—We shall in future essays shew that these dreadful consequences must follow—that the expenses will be increased tenfold—the disasters will be multiplied without end—and that the termination must be, and will be against us.

The second proposition which the Message presents to us, is, that the ultimatum, the sine qua non of a peace is already *changed*—It is expressly admitted by the President that the Orders in Council are repealed and repealed in such a manner as “to be capable of explanations *meeting the views* of this Government.”

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But that the point now unsettled, and for which *alone* the war is carried on, is the refusal of the British Government to suspend the practice of impressment—This then is avowed to be the sole cause of prosecuting the war—There is an end to the restraints upon our commerce, but we are to wage this war for the exemption of British seamen from impressment.

It is very fortunate for the desired and very desirable unanimity among the people, which is rapidly taking place, that we should know from so high authority, that the *cause*, for which we are enduring such privations, and expending so much blood and treasure, is the *protection of renegadoes and deserters* from the British navy—we are fighting not for an American, but a British interest.

The third great feature of the Message, is, that the Governors of the two old and venerable states of Massachusetts and Connecticut are declared to be somewhat in a state of insurrection—They are (as it were) recommended to be put under the ban of the Empire.

If the war Congress, the high mettled racers of the South should be as warmly impressed, as the Message seems to intend they shall be, we must expect to see it followed by, a declaration that Massachusetts and Connecticut are in rebellion—by a suspension of the habeas corpus, and by commissions to Gen. King and the volunteers whom he has raised, to coerce the refractory states.

The *least* we can expect from this part of the Message is a law placing the militia under the orders and lashes of the officers of the standing army—and our papers will soon give us another affecting detail of the ceremonies with which the deserters from the militia are shot.

We have much to say on this interesting subject—this alarming stride to despotism which is proposed by introducing the conscription laws of France into our country, but it must be the subject of special

and separate consideration—We now only mean to indicate the topicks which the Message presents.

The fourth subject which the Message furnishes, is the increase and encouragement of the standing army and militia.

New bounties—new pay—new encouragement to these locusts who are consuming, like their predecessors in Egypt, every green thing—every fertile plant in our late happy and peaceful country—For what purpose are they to be raised? to repel invasion? We are threatened with none; to conquer Canada? For what purpose? to protect British seamen from impressment; and will the conquest of Canada effect this? We know it will not; our path is on the ocean; we complain that it is obstructed; in order to clear it we turn our backs upon the very path which we would open, and march in an opposite direction. This is a curious mode of effecting an object; but it will be said that the capture of Canada will coerce Great-Britain; I admit, that if a man steals my horse, I may compel him to do me right by taking his house or his farm or any thing *necessary* to him; but is Canada *necessary* to Great-Britain? No; is it as important to her as her *own seamen*? No; Then she will never give up to our demand of protecting her own *native subjects*, even if we take Canada.

But fifthly and lastly; The Message suggests another dreadful thought; a thought which brings to our minds all the horrors of Baltimore; It appears to us, in a covert and yet very perceptible, and very obvious manner, to recommend an extension of constructive treasons.

The whole history of the Tudors and Stewarts cannot exhibit a latitude of expression more suited to make every thing a crime, than the President's phrase of "corrupt and perfidious intercourse with the enemy."

Suppose a bill framed in these words, declaring

any man guilty of treason, who should be found holding a "corrupt and perfidious intercourse with the enemy."

Suppose the habeas corpus suspended, and Gen. King ordered to escort any man on whom the President's, or Dr. Eustis's, or Gen. Dearborn's, or Mr. Hill's suspicions might light to Washington, there to be tried by a packed jury, *returned at pleasure* (that is chosen by the Marshal who is the President's servant.) What do you think his chance would be? For my part I had rather take my chance with the mercy of a Presidential mob, than a Presidential jury—All the *facts* of which a man could be convicted are detailed in the late law forbidding supplies to the enemy, what then can be intended except to punish upon surmises and suspicion? The liberty of the people is in danger.

NO. II

It has been the constant boast of our administration, in the midst of the most *hostile acts*, that it is sincerely *desirous of peace*—such professions cost but little, and afford the people who suffer, small consolation amidst the distresses and ruin occasioned by the *war*.

A very moderate portion of ability is requisite in framing letters, and despatches, and messages breathing a pacifick spirit.

Yet if the whole conduct of these professing gentlemen be examined and analyzed, and if it has appeared, and shall yet appear, that their *conduct* is in direct opposition to their *declaration*, we ought to entertain but one sentiment in regard to them, and that is, that by adding duplicity to injurious projects and ruinous measures, they merit a double portion of our resentment and distrust.

An overwhelming mass of these pacifick profesions

flowed in upon us at the moment when this unjust and unnecessary War was declared, and a new edition of the same hollow and insincere declarations has just been published, at the very moment, when we are carrying *fire* and *sword* into the peaceful colonies of Great Britain—when we are excited by every species of exaggeration and misrepresentation to carry on the War with ferocity and fury.

It is pretended by the President, that at the very moment of his declaration of War, he made new efforts to obtain peace, and even solicited an *armistice* before an actual appeal to arms had been made. We shall say nothing upon this new and unheard of procedure. We shall admit, though we think the conduct extraordinary, that if proposals were made to Great-Britain, such as even a feeble, a base and degraded nation could accept from a haughty and much more powerful foe, that the administration deserve credit for.

But if it shall appear, as it will, that the offers made were not only illusory but insulting; if they were such as any nation not ready to pass under the yoke, would have rejected;—if, in short, it must have been foreseen that they would be rejected by Great-Britain, I can only say that the people ought to view with disdain this attempt to impose upon their understandings.

It is my design to *analyze* this whole correspondence with Great-Britain, and I fear that I shall be compelled to shew, to the disgrace of our rulers, that all this parade of negotiation had only one object in view, to enable the President to make a shew of a pacifick disposition—to lull the fears and excite the hopes of the people;—*to secure the reelection of the Author of this War to the Presidency.*

In executing this task, I must entreat the attention of my readers to two circumstances which they must keep in mind throughout the whole discussion.

The one is, that in examining the negotiations and propositions of our artful cabinet, propositions adroit-

ly stated, carefully considered, cautiously expressed, combining all the talents of the President and his ministers, very considerable time and attention will be requisite.

I am persuaded that to the great mass of readers, the subject will be uninteresting—the topics are too refined, the argument too elaborate and complicated for general use.

It is only from those whose means of information, and whose power of discrimination qualify them to follow a continued train of reasoning, and whose patriotism and zeal will induce them to undertake it, that I expect attention.

It is however a solemn duty in all those, who know how often the People have been deceived by the *sophisms* and false pretensions of the Cabinet, to examine this subject, and to attend to the essays of any man who will devote his time and whatever talents he may possess to this arduous duty.

The second circumstance worthy of consideration is this: that it is impossible to discuss and to prove, the insincerity of the offers made by our own cabinet without *indirectly justifying* the British cabinet in rejecting them. Hence it may be expected that the old clamour, of supporting the pretensions of our enemy will be revived, and if we were to utter these sentiments in Baltimore we might be exposed to martyrdom and massacre. We simply however present to all tender consciences this plain apology.—Whether our rulers have sincerely and honestly solicited and sought for Peace is an important question. *If they have, all opposition ought to be withdrawn, and we should unite in their favour. If they have not; but if in place of it, they have endeavoured to deceive the people by insincere professions of peace, they merit our highest censure and indignation.*

I cannot perceive how this question can be in any manner discussed without involving in it, either a *censure* or an *approbation* of the British Government

in rejecting the overtures. If any man can see a middle course let him take it.

For ourselves, conscious of as much patriotism as Mr. Madison *pretends to*, and seeing no reason as he does for covering up our thoughts in dark, ambiguous, unintelligible language, we shall proceed boldly to shew that his late extraordinary proposals for an *Armistice* were unreasonable, hostile, and calculated to produce every thing *but Peace*.

Having already extended the necessary preliminary observations to so great a length; the limits of a newspaper essay will only permit us to make these important introductory remarks on the subject of the late extraordinary and unreasonable propositions for an Armistice.

The first is, that it is we believe the first time, in the history of nations, that a proposal for an *Armistice* was made by the party declaring an *offensive war*, before he had struck a single blow upon the enemy;—before he had gained or was likely to gain a single advantage. If we should put this measure into a simple form, we should say, that it was in the nature of a menace—"There, Sir, you have failed to yield to our threats, because you thought we did not dare to make War, we now shew you that we have courage, therefore yield." Is this a natural and usual mode of conciliating an enemy, and of reconciling him to terms which he had before rejected?

A brave and powerful nation would have preferred to have shewn its prowess—to have wrested something from its enemy which it could offer, as the equivalent for concession.

The second remark which occurs to us, without entering at large into the terms proposed, is that we offer to Great Britain precisely the same terms which were offered by Mr. Monroe in 1807.—We offer to exclude British seamen from our publick and private ships.—On those terms, properly secured, she offered to modify her practice of impressment. This is

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upon record. Mr. Monroe is bound to acknowledge this fact for we have it under his own hand. We cannot refrain from asking the question, why this point, if now offered in sincerity, was not accepted before the War?

If it had been, as the Orders in Council were voluntarily withdrawn by Great Britain, no cause of war would have remained. We shall shew in our next essay why Great-Britain did not accede to the terms offered by our cabinet. In short we shall shew that there was only a feint—a pretence—an appearance of acceding to those terms on the part of our cabinet.

Lastly—It is evident by the *apparent* offer, (and though I shall shew it was only an offer in appearance, yet it is so far a commitment or admission of our cabinet) that we admit that Great-Britain has been always right in complaining of the enticement and enlistment of her subjects in time of War:—Because our cabinet now propose to prohibit by law the enlistment of British sailors, and surely they would not agree to this if by the law of nations, we, as a neutral nation, have a right so to enlist or employ them. Our cabinet is not made of such stuff as to give up to Great-Britain any legitimate rights. They admit therefore they have been in the wrong.

NO. III.

THE PROPOSITIONS RECIPROCALLY MADE BY THE AMERICAN AND BRITISH CABINETS FOR AN ARMISTICE, AND THE REASONS ASSIGNED FOR THEIR REJECTION.

To facilitate the examination of this subject, I propose to consider,

1st. What were the specifick propositions respectively made?

2nd. In what manner they were received by the different governments including herein the answers severally made.

3d. The reasonableness of these several propositions, and replies.

If we were to decide, as to the nature of any propositions made for an Armistice, either from the practice heretofore adopted by all civilized nations, or from the rules of natural justice, equity and decorum, we should certainly conclude that the offer ought to be perfectly reciprocal; not claiming for the party who proposes it any advantage over the other to whom it is proposed; otherwise a rejection must be expected, and we must look to some other motive than the avowed one for the proposition. To expect that an enemy in time of war would voluntarily yield any point without an equivalent must be absurd—There is only one exception to this rule, and that is, where the party who makes an unequal and unreciprocal demand, has gained some great advantage in the war, or is in a condition so manifestly superior in point of force as to give him a right to dictate the conditions of an Armistice—Thus we have seen Bonaparte often insisting, as for instance, to the king of Sardinia, after the battle at Coni, and to Austria before the treaty of Campo Formio, on terms which any equal and unsubdued foe would have spurned—In all such cases we consider it the language of a haughty master to a humble and conquered enemy—We believe that the annals of modern Europe cannot exhibit a case where between two parties perfectly equal, and before the chances of war had been tried, terms totally devoid of reciprocity have been demanded—Much less could any man conceive, that the rulers of seven millions of people, not injured to war, with six frigates, and ten thousand ill-disciplined, raw and inexperienced troops, would demand, as a condition of a mere *suspension* of hostilities, the relinquishment of a right exercised for four centuries from an old powerful nation comprising sixteen millions of people, with 300,000 regular troops and 400 ships of war.

Yet such a case we undertake to shew has Mr.

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Madison for the first time exhibited—The Orders in Council and blockades having been removed as it is now confessed to the satisfaction of our cabinet, the practice of Great Britain of reclaiming her *own native seamen*, a practice which we shall shew under our third division to have been coeval with the existence of her marine, and a practice uniformly adopted by all other nations, especially by America and her ally France, this ancient practice was the only remaining ground of war, and the only source of dispute between the two countries.

Great Britain claims it as a *right*—we contend that it is a *wrong* done to us. Now Mr. Madison asks as a condition of even a suspension of arms, and as the very commencement of negotiation, that Great Britain shall relinquish the exercise of this which she claims as a right—"We will not hear you," says Mr. Madison, "till you give up your claim, and then we will treat with you about the justice of it, or the modes of indemnifying you for giving it up."

The first question is, did Mr. Madison make this monstrous and preposterous claim? Could he insult any nation, however feeble, by such a preliminary proposition?

One man says, I do not understand the demand in this light—another says, Mr. Monroe explained and took it back in a subsequent letter, which by the way was not written till six days before the Message.

A third gentleman with honest zeal exclaims, it is not possible Mr. Madison could have been guilty of playing so broad a farce!

I shall prove by unquestionable evidence that such a proposition was made, for which no equivalent was offered to Great Britain.

In Mr. Monroe's instructions to Mr. Russell, dated June 26th, eight days after the declaration of war, he authorises and directs him as follows: "If the Orders in Council are repealed and no illegal blockades substituted to them, and *orders are given to discontinue*

the impressment of seamen [mark it reader ! *any* seamen, British or American, naturalized or not] from our vessels, and to restore those already impressed, there is no reason why hostilities should not immediately cease—*securing* these objects, you are authorized to stipulate an armistice.”

Now, no language could be clearer to shew, that the actual discontinuance of the practice of impressment must *precede even an armistice*—In other words, a question which has been twenty years in discussion between the two nations, a question founded on several centuries usurpation, if you please so to call it, a question in which Great-Britain is supported by the practice of America and France, as I shall most amply prove, this question which she considers a vital one for her marine, Great-Britain is required to give up as a condition of a temporary suspension of arms.

Mr. Russell our minister understood his instructions in the light in which I do—and no man can understand them otherwise.

In his letter to Lord Castlereagh of August 24, 1812, he says “ that he is authorised to stipulate with his Britannick Majesty’s government an armistice *on condition* that the orders in council be repealed, and no illegal blockades substituted ; and that orders be *immediately* given to discontinue the impressment of *persons* from American vessels, and to restore the *citizens* of the United States already impressed.”

Here we find the discontinuance of the practice of impressment a condition precedent to an armistice—It is curious also to notice the legal precision of Russell’s terms—They are to require the discontinuance of impressment of “*persons*,” that is, of all or any persons—but those he requires to be restored are only “*American citizens*”—We are astonished that they had not the effrontery to demand the re-delivery of British subjects who had been impressed—But on reflection it is as well and nearly the same, because the

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terms "American citizens" includes British sailors naturalized, many of whom obtained naturalization in twenty-four hours after they came on shore—This topick we shall however examine when we consider the reasonableness of the propositions.

Lord Castlereagh comprehended Mr. Russell's demand in the same manner in which Mr. Russell had understood his instructions.

"I cannot, said his Lordship, refrain on one single point from expressing my surprise, namely, that as a condition preliminary even to a suspension of hostilities, the United States have thought fit to demand that the British government should desist from its ancient and accustomed practice of impressing British seamen from the merchant ships of a foreign state simply on the assurance that a law shall *heresafter* be passed, &c. &c."

His Lordship goes on to declare that Great-Britain is now ready as she has been *heretofore* to agree to any substitute which may accomplish the same end—but this will come particularly under consideration when we come to the second proposed division.

The present design is merely to prove, that our government did demand the discontinuance of impressment as a *preliminary* even to any negotiation—But some gentlemen have construed a phrase in Mr. Monroe's letter of the 27th of Oct. to Sir J. B. Warren, as denying the intention to demand the relinquishment of impressment as a preliminary—We know they are mistaken, and that government do not *even now* pretend that they are ready for an Armistice, unless the practice of impressment be *first* relinquished—The clause on which doubts have arisen is this, Mr. Monroe in his letter to Sir John B. Warren, says, "Lord Castlereagh in his note to Mr. Russell, seems to have supposed, that had the British government accepted the propositions made to it, Great-Britain would have suspended *immediately* the exercise of a *right* on the mere assurance of this government that

a law would be afterwards passed to prohibit the employment of British seamen in the service of the United States; and that Great-Britain would have no agency in the regulation to give effect to that proposition." "Such an idea," he adds, "was not in the contemplation of this government, nor is it to be inferred from Mr. Russell's note; but lest such an inference should be drawn, subsequent instructions were given to Mr. Russell with a view to obviate every objection of the kind alluded to. These instructions bear date 27th July, and were forwarded by the British packet *Althea*."

Now, what is it that Mr. Monroe means to deny? That the relinquishment of impressment was an absolute preliminary? Or that it was not expected that Great-Britain should have no voice, *no agency in the terms of the act of Congress* which might be passed to regulate them? We say clearly the latter—We prove this by the new instructions of July 27th to Mr. Russell, which are given in the documents, and which expressly stipulate, that impressment must be instantly abandoned as a preliminary to an Armistice.

It however provides that Great-Britain shall be consulted as to the terms of the provision restricting the employment of British subjects.

This then, and this only is the point which Mr. Monroe meant when he said that Lord Castlereagh misunderstood the claims of our government—This is further proved by the very same letter to Sir John B. Warren, which is dated only sixteen days since, in which it is added "that a *suspension* of impressment during the *Armistice* seems to be a *necessary* consequence—It cannot be presumed, while the parties are negotiating, that the United States would admit the right, or *acquiesce* in the practice of the opposite party." This alone settles the question as to *what was demanded*, but we shall remove all doubt hereafter.

NO. IV.

THE SEVERAL PROPOSALS FOR AN ARMISTICE CONSIDERED.

If any doubts should still remain on the mind of any one, whether the absolute and entire discontinuance of the practice of reclaiming *her own seamen* out of merchant ships on the high seas, was demanded by Mr. Madison, of Great-Britain, as a condition of granting a suspension of arms only, those doubts must be entirely removed by the following additional facts.

Mr. Monroe, when he denies that Lord Castlereagh understood Mr. Russell and our Government aright, refers to his explanatory letter of July 27th by the British packet *Althea*, in which he says, that the original proposition is fully explained. On examining that letter, we find it again asserted, that "the Orders in Council, illegal Blockades and Impressments, were the principal causes of the war, and if they *were removed*, you might stipulate an Armistice."

The only differences between this new explanatory letter and the former one are the following :

1st. Mr. Russell was authorised, by the last letter, not to insist upon a *written* stipulation to be contained in the instrument declaring the Armistice, but he was especially directed to procure an "informal understanding, so as to admit of no mistake," that impressments should be instantly discontinued.

2nd. He was to make the Government of Great-Britain distinctly to understand, that all stipulations as to the exclusion of British seamen from our ships must ultimately depend on Congress, whose consent would be necessary to give validity to the bargain diplomatically agreed upon.

When we come to the consideration of the reasonableness of the several proposals, we shall resume this

fact, and ask, whether from the very acknowledged uncertainty of the temper of Congress on this delicate subject, it would have been expected of Great-Britain that she would yield so ancient a claim for the advantage of a promise which the maker of it avowed he had no power to fulfil, and where the execution of it rested upon the good will and good faith of such men, as Seaver and Cutts—and Bibb and Troup—and Grundy and Clay—and Wright and Nelson?

Another proof that our Government never contemplated *even an Armistice*, but upon condition that Great Britain would get down upon her knees, put on the penitential garments, and renounce the error of her ways, will be found in a still later letter from Mr. Monroe to Mr. Russell, assigning the reasons why the President rejected the early, and for us, very favourable offers of Sir George Prevost and Mr. Foster, for an Armistice.

This letter, dated August. 21st, states, that, "As a principal object of the war is to obtain redress against the British practice of Impressment, an agreement to *suspend hostilities*, even before the British Government is heard from on that subject, might be considered a relinquishment of that claim."

A pretty curious sort of reasoning, and one for aught we see which would forever put an end to all Armistices!! For one party or the other might always urge that the agreement to the Armistice would be considered a relinquishment of his claims, and therefore, that the other must, as a preliminary even to discussion, put him in possession of what he demands, otherwise he could not in honour negotiate.

But the most conclusive proof, that an Armistice would never be agreed to, unless Great Britain would yield (*not the point of honour only*) but her ancient, and as she deems most interesting right (and how dear it is to her we shall hereafter shew), will be found in the last clause of Monroe's letter to J. B. Warren, in which he says,

"If there is no objection to an accommodation relating to Impressment other than the *suspension of the British claim to Impressment* during the Armistice, there can be none to proceeding, WITHOUT THE ARMISTICE to the discussion and arrangement of an article on that subject. The great question being satisfactorily adjusted, the way will be open to an *Armistice*," &c.

Here then the question is put at rest.—If Great-Britain had been mistaken as to our demand of an *immediate suspension* of her *practice of taking British seamen*, it was the most simple thing in the world to have intimated, after saying as Mr. Monroe does—
 "If that is the only objection on the part of Great-Britain to the Armistice, proposed by us, why we will agree directly to the Armistice, and to an immediate negotiation *pending the Armistice* on the subject of Impressment."

But the reverse is Mr. Monroe's alternative—"If you will not agree to suspend Impressment as introductory to an Armistice, why we will negotiate without an *Armistice*." Which is equivalent to saying, that an Armistice will never be granted, until you yield this point.

We shall shew, by and by, that the *last offer* of treating, without an Armistice, is the mere shadow of a shade—a pure phantasm, which will elude the grasp, though it is well calculated to deceive the credulous, and lead the seekers of popularity astray.

We have shewn what were the precise and only terms offered by us to Great-Britain, that while we proposed simply to withhold actual hostilities, keeping on our Non-Importation law, which we declared to be the most efficient *War* measure, we demanded of her not merely a correspondent cessation of captures and warlike measures, but the immediate suspension of an interesting right during the Armistice, which might either be protracted by negotiation through the

whole European war, or Great-Britain would have the odium of breaking it off, and thus give our cabinet all the popularity and benefits, at home and abroad, of waging a *defensive* war, in place of the odium of carrying on an *offensive* one.

Nor were the inequality, and preposterous nature of these terms the worst features in the negotiation.—Our Government and Minister took care not only to make Great-Britain perceive, that we were afraid to trust her during an Armistice, even after she had voluntarily abandoned the two great formerly *avowed* causes of war; but they reminded her of the vast injuries she had wantonly committed upon us, and the unprecedented forbearance of the United States, and lest all this language and this extraordinary demand should not induce her to reject our proposals, orders were given to hint to her, that after these humiliations were submitted to, we had many "*rods in pickle,*" for which she must prepare her Imperial back.

"Although there are many *just and weighty* causes of complaint against Great-Britain (says Mr. Madison, in his instructions for an Armistice, in his hollow instructions to make a *shew* of an Armistice), you will perceive that the Orders in Council, illegal Blockades, and Impressments are of the *highest importance.*"

Gracious Heaven!! What hopes can that nation ever have of arriving at an end of its labours!! The toils of *Hercules*, and the disasters of *Job*, have no comparison with them.—I had thought that the tenderness of our government for Great-Britain had induced them and their editors, the National Intelligencer, Aurora, and Chronicle, to state to us all the various causes of dissatisfaction against her.—I had thought that after atoning for the attack on the Chesapeake, relinquishing all illegal Blockades—rescinding the Orders in Council, and renouncing Impressments, there would remain *no* cause of dissatisfaction against Great-Britain; but she is

now told, that these are only the *higher* causes of complaint, and that after she has submitted to all the humiliations demanded of her, our Attorney-General will then file a bill, and present a specification of the other "*just and weighty causes of complaint.*" I can only say, that I never yet heard the bitterest enemy of England mention any other causes, than those enumerated by Mr. Madison.—What possible encouragement then could the British cabinet have, to agree to our proposals, when they could see no termination to complaints, and pretexts, and causes, for avoiding an ultimate arrangement, and when the *exclusion* of British trade, (the only *real object* of France in obliging us to enter into this war) was to be continued until Peace should be finally concluded?

The government of Great-Britain lost no time after the war was known, in making to our cabinet proposals for an Armistice. These proposals were like all propositions between equal states, perfectly reciprocal. They require of us to *suspend hostilities only*, in consideration of suspending hostilities on their part. They are silent as to Impressments—and would any person enquire why? It may be answered, that Impressments never had been presented to Great-Britain *as in themselves the cause of war*—They had existed prior to Jay's treaty, and that treaty was made without demanding their discontinuance—they continued during the whole of Mr. King's residence in Europe, as well as during Mr. Monroe's, and the latter also made a treaty in which they were left as the subjects of future arrangement.—How then could Gt. Britain presume that this would be on our part a *sine qua non* of an *Armistice*?—Especially as the discussion on that topick with Monroe and Pinkney had shewn that many months would be required to arrange it?

The universal sentiment in England and America was, that if the Orders in Council and Blockades

should be withdrawn, the cause of War would cease—at least it was supposed that *hostilities* might cease, and the other subjects be matter of negotiation for a definitive Peace.

Our cabinet knew well that this state of things would take place—They knew from our minister in France, Barlow, that the French decrees had been repealed on the 28th of April, 1812. This was known here before the declaration of War. They knew equally well that Great-Britain, according to her pledge, would (as she afterwards did) repeal the Orders in Council.—To prevent the effects which this would produce in this country, War was *previously declared*—But the repeal of the Orders in Council *might create* clamours for peace in the United States—Here too they had their plaister for the wound.—A proposal must be made for an Armistice, and to the astonished cabinet of Great-Britain, fondly anticipating the return of peace by the repeal of the Orders in Council, the old subject of *her claiming her own seamen*, so long and so often discussed and never before presented even as a *sine qua non* of a treaty, makes a splendid figure in the foreground, as a preliminary even to a cessation of the shedding of human blood. Such is the difference in the proposals of the two cabinets—While the one repeals her obnoxious measure, and simply claims a mutual *cessation from hostilities*; the other presents at the very threshold of negotiation, a check mate which puts a period to the game of peace—We ask Great-Britain to yield, as a *preliminary*, what is well known she would not give up without a substitute, until Dearborn shall have planted his standard on the Tower of London.

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NO. V.

ON THE REASONABLENESS OF THE OFFERS FOR AN
ARMISTICE.

The principles on which the practice of reclaiming their own citizens by belligerents, is founded—its antiquity, and universality.

WE cannot decide, whether the proposals made by our cabinet were or were not reasonable, without entering into a discussion and history of the claim which they required should be surrendered as a preliminary—There is no topic *less understood*, and precisely for the reason, that it has been so long and so much talked about. Every man fancies he understands the topic of every day's discourse, and therefore gives himself no trouble about it; and every hour you meet young and old men talking most flipantly on this *universally exercised right*, without having examined any of the principles on which it is founded, any of the difficulties which attend its relinquishment by belligerents, any of the embarrassments which have been, and which we fear and believe will forever be in the way of an adjustment of it, consistently with the mutual rights and interests of America and Great-Britain. There has been another obstacle to a right comprehension of this question—It has been always treated with passion and ill temper. All nations are very jealous upon questions where they fancy their rights and their honour are concerned, but few are so extremely tender and so little ready to exercise their reason and their impartiality as a certain class of Americans. It is enough always for such men, that Great-Britain exercises a right which produces some inconvenience to us, or which reminds them of her naval power, without stopping to inquire whether she is singular

in her pretensions, or whether we claim the same for ourselves. Indeed this description of overboiling patriots would be the very first men to cry Hosanna to any of our naval officers who should do a bold and questionable thing to any neutral nation, if that act should promote our interest or our glory.

In examining this claim of taking out *their own* subjects from neutral merchant ships, by belligerents, we shall consider,

1st. The principles on which it is founded.

2d. Its antiquity, in point of usage by Great-Britain.

3d. The ordinances of France, on the same point.

4th. The former negotiations on this subject between us and Great-Britain.

5th. The unalterable resolutions of Madison on that subject, as expressed in a letter which was written in 1807, to our ministers, chiding them for having dared *almost to adjust it*, and declaring that *our flag must cover all English sailors who have been here two years*, whether naturalized or not, both prospectively as well as *retrospectively*.

It will appear from this last document, that there is no hope of an adjustment, because the offer to exclude British sailors, lately made, is so expressed, as that it will admit of our employing them in one day after they have landed, if we make them *American citizens*—such we shall shew must have been the intention.

1st. We shall consider the principles upon which all belligerents claim the right to the service of all their citizens or subjects in time of war.

It is one of the principles the most universally admitted of any which we know of, that allegiance and protection are reciprocal—that every nation has a right to the services of all its citizens in time of war—that the allegiance due from a native citizen endures during his life, and although some liberal writers contend for the right of expatriation, or a change of allegiance in time of *peace*, yet even these writers deny this right to any citizen when his coun-

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try is at war. This maxim is a fundamental one of the common law of England, and has been adopted by us since our separation from that country.

In a very famous case in Connecticut, which was tried before Judge Ellsworth, in which one Williams had attempted to change his allegiance, had obtained the rights of a French citizen, and had accepted a command in the French service, the Federal Court decided, that no American citizen could change his allegiance, and sentenced Williams to punishment for compromising the neutrality of the United States, by entering into the service of a foreign state. The United States were then at peace, and of course our Courts adopted the narrowest possible construction; for no writers deny the right of every country to command the services of its citizens in time of war. France never retaliated this treatment of her naturalized and adopted citizens.

Nations not only deny the right of a subject to change his country and allegiance in time of war, but they claim the right to the *active* services of their citizens in such times of peril.

The impressment laws of Great-Britain, and the conscriptions of France, are proofs of this proposition—and the United States contend for the same right. The drafting of their militia, which is a coercive measure, obliging the citizens who may happen to be drawn to military service, is of the same character, and founded upon the same principles.

Our Constitution has, to be sure, limited this power by consent of the people, to the cases of "*insurrection, resistance to the laws, and actual invasion,*" and has reposed the power of judging of the existence of these exigences, in the commanding officers of the several independent states; but the right of drafting and forcing the militia into service, in case those exigences exist, is unquestionable, and proves the general proposition, that every nation has a right to command the services of its citizens in time of war.

If allegiance, then, is perpetual, extending *to the life of the citizen*, and if that allegiance includes the obligation to render military service, it cannot be necessary to shew, that a man is bound to enter into the service of his native country *whenever and wherever required*.—Still less can it be necessary to shew, that two perfect rights cannot exist in two *different* countries at the *same* moment to the services of the same man.

A man may, however, contract a second obligation—he may enter into a new allegiance by being naturalized in another country.—Such an allegiance is, however, inferior to the other, and cannot derogate from, or diminish the duty which he owed to his former sovereign.—The first obligation is paramount and superior, and whenever the two duties come into conflict, the second, later and inferior duty must yield to the first and the superior obligation.

The only remaining question is, to *what extent* and in *what places* can the sovereign exercise this right over the person and services of the citizen? Our Government contend that it can only be exercised in the country of which such person is a subject or citizen.—The writers of the laws of nations are silent on this subject. The reason of their silence as we apprehend, is, that until our country made it a question, every nation considered that it had a right to demand the persons and the services of its citizens, in every situation where they were not under the territorial jurisdiction of another independent country.—We shall shew under our other heads that though writers on general law have been silent on the question, whether the sovereign power of coercing the citizens to military service may be exercised on the high seas, yet that the constant usage, the undisputed usage of all nations, is the cause of this silence—and that like many other universally admitted principles of national law, necessarily resulting from certain acknowl-

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edged rights, it is omitted merely because it was never questioned.

The great question between us and Great-Britain is, whether her claim to demand and *take her own seamen* on the *high seas*, is a novel or unjust principle?—Whether it is a violation of our rights, or an interpolation in the doctrines of international law?

The law of nations admits the right of belligerents to enter on board of neutral merchant ships for the purpose of making certain examinations. They have a right to examine, 1st, Whether they are carrying articles contraband of war.—2d, Whether the property be that of an enemy.—3d, They have a right to examine strictly the *persons* on board, because if they are *enemies*, they have a right to take them out.

Here, then, there is an end, by the acknowledged law of nations, to the absolute inviolability of the flag. The high seas are by these *acknowledged* and universally admitted principles considered a sort of common territory, in which certain rights of belligerents may be exercised which are not permitted in *neutral countries*. If then a belligerent may take out of a neutral ship *persons* owing allegiance to his *enemy*, though shipped in neutral countries, it must be on the principle that the neutral flag on the high seas cannot protect all who sail under it.—It admits the right of examination and search, and seizure of *persons* as well as *papers* and goods.—These are undisputed and unquestioned rights.—But if a belligerent can take out his *enemy* from a neutral ship merely because he may possibly *injure him hereafter*, with how much more reason can he take his own subject, who owes him perpetual allegiance and *whose service he actually needs*? I shall shew, in my next essay, that all the objections that have been urged against the claim of *Great-Britain* arising from the arbitrary and imperfect nature of the inquiry by an ignorant and obstinate naval officer, apply as well in one case as the other.

NO. VI.

THE PRINCIPLES ON WHICH BELLIGERENTS CLAIM THE
 RIGHT TO TAKE THEIR OWN SUBJECTS ON THE HIGH SEAS.—
 THE ANTIQUITY AND UNIVERSALITY OF THIS CLAIM.

By the ordinances of *France*, it is provided, that neutral ships, in order to be entitled to the benefits of neutrality, must be navigated by a crew of which the captain, mate, and two-thirds of the seamen are subjects of the neutral country.—It is also provided, that no seaman shall be entitled to the privileges of a neutral citizen, unless he shall have been *naturalized* in such neutral country before the *commencement of the war*.

One of the most popular objections to the claim of Great-Britain to search and take out her own subjects, is the one stated by Mr. Madison, in his war message, and that is, that seamen are by this practice subjected to the caprice and whim of every petty naval officer, without being entitled to the privilege of a trial by a court of law, a solemnity necessary to the condemnation of even a bale of merchandize.

To this plausible objection there are various answers.—The same loose, informal, arbitrary mode of decision, is by the acknowledged law of nations sufficient to turn a ship out of its voyage—to defeat the best projected plans—to expose a crew to all the evils of capture and detention.—Even the American navy exercises the same arbitrary power over the persons and property of their fellow-citizens.—In a late case the *Ariadne*, owned by Mr. Goddard, of Boston, has been seized at the whim of a naval officer, the crew removed out of the ship and made prisoners, and the ship and cargo sent back for trial, when she had committed no offence. If it be said that the admiralty courts will give relief, by awarding damages in such cases, the answer is, that such damages are

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rarely given, and are never adequate to the injury; and it may be added, also, that every seaman illegally impressed has a like remedy, in the courts of law of Great-Britain, and if their poverty and friendless situation preclude them from seeking it, it is the duty, and it would be very easy for a neutral government to appoint agents to prosecute for damages, which we have no doubt would be honourably awarded in all cases of illegal detention.

But the best answer to this objection to the universal practice of belligerents of taking out their *own seamen*, is this, that the same caprice, the same informal and uncontrolled authority is exercised rightfully by the law of nations, so far as respects *enemies* found on board neutral ships. This would be found as extensive an evil to neutrals, if a case should ever happen in which a neutral and a belligerent should speak the same language, and the other belligerent should have as great a superiority as Great-Britain has upon the ocean.—In such a case, the neutral would often be exposed to seizure and detention, being mistaken for an *enemy*; and all the objections which are made to the exercise of the right over his own subjects in neutral vessels by a belligerent would apply with as great force, and yet no question could exist as to the right.

We have said, that one cause of the silence of writers upon the law of nations, as to the right of belligerents to *reclaim their own seamen*, when found within a common jurisdiction, like the high seas, was, that this right had never been questioned.—It was a right so superior to others which were admitted, that no man could raise a doubt upon it. Belligerents have a right to take out their enemy's property and the persons of their enemy.—Would they not have a right to take out *their own property*, forcibly, or fraudulently, or improperly withheld? They have a right to take out their enemy's persons—have they not also a right to take out their own subjects, who owe them allegiance, and who have fraudulently or forcibly

withdrawn themselves from the duties which they owe their sovereign?

But there is another stronger reason why this subject has not been discussed by writers on the laws of nations.—Until the present war, the cases of belligerents seeking the protection of a foreign neutral flag, were necessarily rare. Since commerce has become important, within the last two hundred years, the only nations which have been neutral have been Holland, Denmark, and Sweden. These nations overflowed with seamen. The belligerents have been England, France, and Spain. The English sailor had rather starve on board his own ships than seek an asylum in the merchant vessels of countries whose habits, customs, and discipline are so different from his own; and as to French or Spanish sailors, so loose and dirty in their habits, a Dutchman or a Dane would never admit them into their ships, let their distress for seamen be ever so great. Besides, the laws of France and Spain are so severe that their seamen dare not enter into foreign service.

But when the United States became neutral, the British sailor found an asylum in our service.—The high wages of neutral service, similarity of manners, language, food, and discipline, invited him to our employ. The habits also of our southern states forbade them to enter the sea service, while their enterprize induced them to attempt to rival us in navigation.

A friend of mine, who resided seven years in South Carolina, assured me, that there was but *one seaman* from the port of Charleston, who was a native of that state.*

From these causes, obvious, undisputed and generally admitted, the British marine was stripped of its strength, and our southern states became clamorous

*NOTE. The period, to which my friend alluded, was from 1786 to 1793. There may be a few more *natives* of that state in the sea-service at this day—but the habits of all the southern states forbid their entering into that service. There are native Americans who sail out of the southern ports, but they are chiefly of northern origin.

for the right of naturalizing and *protecting all sailors*, of whatever nation, and as the English furnished us seven-eighths of this *foreign mass*, the evil became intolerable, and could be resisted only by the right of reclaiming them on the high seas.

If, therefore, *no other nation* had heretofore exercised this right—if it was even novel in Great-Britain, surely this *new case*, and the extreme exigency of it, would have justified her in assuming the practice.

For where is the sensible or candid man who will deny that the laws of nations, like municipal laws, must vary and accommodate themselves to the changes in the commerce and relative condition of nations? The whole law of bills of exchange and policies of insurance has grown up out of nothing within two hundred years! And if the divulsion of a great empire, and the erection of an immensely powerful state, speaking the same language with the nation from which it is separated, shall have created difficulties and embarrassments unknown to the ancient world, are there to be no changes in the usages of nations so circumstanced?

The narrow point of the question is, Has Great-Britain a right to the services of all *her native citizens* during war? We have shewn that she has. Do we withdraw from 10 to 40,000 of her seamen from her service? It is admitted that we do. Ought she (if it was a *new question*) to submit to this evil? Clearly not, if she has power enough to remedy it.—Is it for our permanent interest to contest this point with her? Most assuredly it is not—for by contesting it we not only admit a competition to the disadvantage of our own native seamen, but so far as the British seamen supply our wants, so far as they fill up the chasm which would be otherwise filled by native Americans, just in the same proportion do we neglect those means of power to which Great-Britain has been ever so attentive—so far do we despise the increase of our seamen, upon which the strength, and

opulence, and respectability of all maritime nations depend.

Under the show, then, of *protecting our seamen*, the southern states are really contending for a competition which reduces their wages and lessens their number, and of course the force and independence of the nation.

We have hitherto gone upon the idea that this practice of Great-Britain was a *novel one*—that it was a pretension which she has set up in *hostility to us*, or at least against *us alone*. We have just assigned reasons to shew that if this were true she could have a great deal to say—because the relation of our two nations is new and unexampled.—But we shall now proceed to shew, according to our second proposition, that Great-Britain has exercised this right against *all nations* for more than two centuries—that she exercised it when we were a part of her dominions—that it was then a portion of our Common Law, and that no nations pretended to complain of the exercise of this right, so far as it respected merchant ships.

If this case shall be made out, and we pledge ourselves to do it in our next number, we ask all candid men whether it does not materially change the aspect of the question, and whether instead of demanding the relinquishment of this practice as a *right*, we ought not rather to negotiate for its abandonment or modification as a *matter of compromise*.—*Evils* there undoubtedly are arising from this *very similarity of language*, which, while it enables us to make a deep wound in the British marine, also sometimes exposes an innocent American to be mistaken and impressed as a British subject. But I am persuaded that it will be seen in the end, that the only fair remedy for the evil, is the exclusion of all *native British seamen* from our service—This, however, is very different from what our cabinet propose, and is what they have declared they never will agree to.

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NO. VII.

THE ANTIQUITY OF THE BRITISH CLAIM OF IMPRESSING
THEIR SEAMEN ON THE HIGH SEAS OUT OF NEUTRAL
MERCHANT SHIPS.

THE clamor which has been raised on this subject, arising from the occasional abuses of the exercise of this unquestioned right, has led many persons to suppose, that this is an usurpation on the part of Great-Britain, of *modern date*, and applied particularly against *us*.—If it were generally known that this is an ancient usage, founded on universally admitted principles, and applied by her to *all nations*, even *before this country existed* as a nation, all moderate and reasonable men would say that it could not and ought not to be expected, that an old and powerful nation should yield up its ancient usages merely because we saw fit to find fault with them. Judge Blackstone, who wrote before the separation of the two countries, and could therefore have no allusion to the present contest, lays it down as a settled maxim of the law of England, that “natural allegiance is perpetual and cannot be affected by a change of time, place, or circumstance, nor can it be changed by *swearing allegiance* to another sovereign—The subject may to be sure by such means *entangle himself*, but he cannot unloosen the bands which connect him with his native country.” He cites a famous case of M'Donald, who went to France in his infancy, and had a commission from the French King, but being found in arms against his native country, he was tried and convicted of treason; nor does it appear that France ever complained or retaliated his conviction, as she probably contended, and we shall shew she has always contended, for the same principle.—We have adduced these opinions and this case as an answer to a plausible objection made by Mr. Madison, and seized with avidity by many persons, that as

Great-Britain *naturalizes* foreign seamen after two years service in her navy, she is inconsistent in refusing us the same right.—But the question is wholly misunderstood by some, and, we fear, purposely misstated by our cabinet.—Great-Britain does not deny our right to naturalize her sailors, but she denies our right to *protect* them against her prior and superior claims.—Her laws admit that a man may emigrate, be naturalized, and owe allegiance to a foreign state, but they deny that these facts absolve him from his first and natural allegiance.

In order to make out the case of inconsistency against her, we ought to shew that she *protects foreign* sailors naturalized in her country against their own natural sovereign.—We challenge any and every man in the country to produce such an instance.—No.—With all her sins and oppressions, it will not be found that she has contradicted the principles on which her marine power reposes—principles consecrated by the universal practice of nations—by the decisions of her courts—by the writings of her most eminent jurists, and by her long diplomatick discussions with this country.

No.—If a solitary case of her refusal to acknowledge the rights of a natural sovereign, and of her setting up her own naturalization laws against natural allegiance could have been found, it would not have escaped the eagle eyes of Mr. Madison and his predecessor.

Some persons, however, (and among the rest the late President Adams, when he went over to the present administration) were so aware that general principles and universal usage were in favour of the right of belligerents of impressment of their own sailors on the high seas, that they thought it best to strike at the root of the whole practice, by denying the right of impressment even in the territory of Great-Britain.—Mr. Adams took his notions from the doubts expressed by some of the old writers. Sir Michael Foster

has most learnedly proved its great antiquity, and the invariability of the practice, and it has been clearly settled to be the common law of England, by Lord Mansfield and Lord Kenyon—See Cowper 517. 5th term Reports 276.

If then, by the common law of England, no man can change his allegiance, not even by residence from infancy in a foreign country, nor by naturalization, nor by holding a commission under a foreign state, and if every seafaring man is by law liable to impressment within the realm, all which doctrines were settled before the divulsion of or separation of the two countries, and therefore ought not now to be questioned by us, the only remaining point is, to inquire whether Great-Britain has asserted and exercised this claim on board of foreign ships, on a common jurisdiction, *the high seas*, and this too from very ancient times.

The first instruction I have met with, was one issued by the Earl of Northumberland, Lord High Admiral of England, to Sir John Pennington, dated April 4, 1640.

"As you meet with any men of war, merchants, or other ships or vessels, belonging to any foreign prince or state, either at sea, or in any road where you, or any of his Majesty's fleet may happen to come, you are to send to see whether there be any of His Majesty's subjects on board; and if any seamen, gunners, pilots, or mariners, (whether English, Scotch, or Irish) be found on board, you are to cause such of His Majesty's subjects to be taken forth, and so disposed of as they be forthcoming to answer their contempt of his Majesty's Proclamation in that kind,"

By the proclamation here spoken of, is intended the usual proclamation issued by all sovereigns, and in the present war especially, by France, Denmark, Spain, and England, ordering home all their seamen from the service of foreign states, neutral, as well as belligerent.—The above cited instruction was re-

peatedly carried into effect, and the particular cases are cited by writers on this subject.—In a very famous case in the year 1687, four Scotchmen and a boy were taken out of a Dutch ship of war, and complaint having been made by the Dutch government, it was referred to the Judge of Admiralty, Sir Richard Raines.—The Memorial complained that this practice might be inconvenient to foreign ships in stress of weather, and would hinder merchant ships in their voyages, &c. To which Sir Richard Raines replied, “As if His Majesty be deprived of the use of his own subjects for his own expeditions, that foreigners might use them for theirs.”

We find that the same claims, the same objections, and the same rational and just answers were made in the reign of James II. as at the present day. In the reign, however, of Charles the II. great complaints having been made of the search of *foreign ships of war*, the instructions were modified so as only to include *merchant vessels*, and the *instructions and practice have continued the same from that period to the present*.—The writers from whom I have obtained these important facts cite in support of them [Pepys MS Collection].—As Mr. Pepys was the person who drew up the instructions, better authority cannot possibly be cited.

It appears that these instructions have been executed both against the Dutch and French, and have been issued to every officer, in every war, for nearly two hundred years, and the writers who speak of the right in the reign of Charles the II. call it an ancient and acknowledged right. Would it then be reasonable to expect that Great-Britain should abandon the usage, and give up her ancient practice in favor of *us alone*, when the similarity of language, and the extensive practice of frauds in the granting certificates of protection, as well as the impositions in procuring naturalization, render the practice doubly important against us?

Our navigation, doubled in the space of ten years, and yet it is absolutely impossible that our seamen could have multiplied in the same ratio—If, however, we should suppose that the seamen increased in a full ratio to population, they would not increase more than 50 per cent. in ten years—hence there must have been a deficit of at least 10 or 15,000 seamen, all of whom were supplied by Great-Britain. An English writer, on this subject, seems to be fully aware of the extent of this evil, and of the nature of the frauds—he gives two examples out of two thousand, which he says can be adduced—"Henry Donaldson made oath before the Mayor of Liverpool, that on the 15th of December, 1800, he procured a protection from Joshua Sands, collector of New-York, by assuming the name of Henry Kent—that it was obtained on the oath of a woman, who swore for several other Englishmen on the same day—he said the woman was charged with having sworn to several hundred in a short time." Sworn to before Tho. Golightly, Mayor—Liverpool, May 17, 1810.

Another impressed on the same day at Liverpool, had about him a certificate signed by Mr. Graaf, Deputy Collector in Philadelphia, which he got by giving an old man four dollars for swearing "that he knew his father, mother, &c." whereas he had neither father or mother, as described, nor had he ever been in America. These and many other affidavits and documents have been taken by the British government, and they well know the extent of these abuses and the vast difficulty of remedying them by any act of Congress whatever.

Great as has been the profit to the southern states by the employment of British *seamen*, who, either naturalized or not, have constituted three quarters of their crews, we find them talk of stipulations to *exclude British seamen!!* Do you believe them in earnest? No—when you come to the provisions of the bill, you will find them require (as Mr. Madison said

they always should insist) that a seaman naturalized but one day before, or resident here two years, should not be considered a British *seaman*. Great-Britain knows these pretensions—She knows that three successive negotiations have failed; one with Mr. Pinkney, 19 years ago—one with Mr. King, 12 years since, and the last with Messrs. Monroe and Pinkney, five years since, from the difficulty of proposing any remedy for *mutual* abuses of acknowledged rights. What these proposals were we shall shew hereafter.

NO. VIII.

DOCTRINES AND PRACTICE OF FRANCE, AS TO RECLAIMING
HER OWN SEAMEN.

It may perhaps be said, as it was by some persons in relation to the Berlin and Milan decrees, that the practice of France ought to be no justification to Great-Britain. We admit this to be true in some cases, and with some qualification—But when we are discussing the *existence of a right*, under the laws of nations, we have no better mode of ascertaining it, than the long established usage of the greatest states in Europe. If France, under all her later monarchs, has set up the same principles, and has watched over the preservation of her seamen with a much *more jealous and severe eye*, than Great-Britain has done, we think it goes far to establish the existence of the *right* for which Great-Britain contends. If the two great rivals of Europe have, in all their maritime wars, united in admitting any *one principle*, I think we may say of it, that it has much more claim to the place of an unquestioned right, than many of the dogmas which are laid down as such by the writers on public law.

I shall shew that France holds the doctrine of allegiance being perpetual—that she is *peculiarly jeal-*

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ous of the claim over her seamen, and is even cruel in her laws, refusing them the right of expatriation—that while she recognizes, as does Great-Britain, both in her own practice and in that of other states, the right of *naturalization*, she undertakes to deny that this can give any new claims to protection to the *naturalized person* against his *own sovereign*. We shall shew that she goes farther, and denies to neutrals the right to *naturalize her enemies*, so as to protect them against *her arms*. Lastly, it will be seen that by repeated edicts she authorizes the seizure of her own seamen in time of war, in her *own ports*, on board of neutral vessels—and *at sea*.

The authority I shall cite will be Mons. Le Beau, now *superintendent*, in Paris, of the details of the laws relative to the marine and colonies. I have, however, in every case taken (not the inferences of M. Le Beau) but the laws and ordinances themselves.

By the laws of France, ever since the reign of Louis XIV, all French seamen are classed, and there are regular officers appointed to enrol and licence them—without such an enrolment no man can exercise even the boat or fishing navigation. Thus the government knows every man in its marine service, for every man who is a sailor is considered as being a part of the marine. In time of *peace*, no man is permitted to ship a sailor without carrying him to the bureau or office of the class in which he is enrolled, and there getting him inscribed on his roll of equipage,—In time of *war*, the commissaries of the classes themselves are forbidden to let any seaman be shipped either for the fishery, commerce or privateering, unless such seaman shall have his *congé*, or dismissal from the public marine. Thus in time of war France commands *every* seaman in her dominions. Having thus explained the general police relative to seamen, I shall now proceed to the various statutes or ordinances which prove the points I have above stated. 1st. The laws of France deny the right of

expatriation, and go farther than Great-Britain, because they make the serving on board the vessels of other nations, whether *enemies or not*, a crime.

By an edict of February, 1650, all masters of vessels, being French subjects, are forbidden, whether they are domiciliated in France or not, that is, whether they have acquired another domicile *or home* in a foreign country *or not*, to take commissions from, or use any other flag than that of France, under the penalty of being treated as pirates.

By an edict of August, 1676, the pain of death, which had been before inflicted upon all the subjects of France, found in the service of foreign states or princes, was changed for that of *service in the gallies for life*.

This last edict is very clear, and from its language it is manifest that whether taken in *arms or not*, against their own sovereign, they are liable to this punishment.

By an edict of October, 1784, it is provided, that, "Any classed seaman, who shall in time of peace be *found serving in foreign ships*, shall be sentenced to fifteen days confinement, and reduced to the lowest wages, and shall serve two years extraordinary at the lowest rate; but those who in time of war shall be **ARRESTED IN *foreign ships***, or *passing* into foreign countries, shall be sentenced to three years service in the gallies."

By the same edict, "It is made the duty of the chiefs or heads of the department of classed seamen, to make search for the deserters from *merchant service*, to arrest them and send them to the officers of the admiralty. They shall also make known to the admiralty any classed seamen, who **HAVING PASSED** into foreign countries, shall have been arrested."

I have given a literal translation of the parts of these two passages which apply to the case, because this last edict was passed in a time of profound peace, in the reign of Louis XVI. and is still in force.

It not only fully justifies my first position, that France denies that her seamen can expatriate themselves, even in time of peace, and that she makes it a severe crime in time of war for them to pass into *any foreign countries*, not excepting *neutral states*. But it supports, and is the great foundation upon which I repose, to prove that she claims the right to arrest them on board neutral ships, either in French ports or on the high seas. We must suppose the French admiralty instructions to be conformable to, and as broad as their edicts.

If so, they must instruct their marine officers to arrest any French seamen "*found on board foreign ships.*" This I admit may mean in the ports of *France*, and so far as this goes, it proves that the flag of a neutral does not cover *all who sail under it*—and this part also corresponds to the British practice of impressments in their ports.

But it goes farther, it orders the arrest of sailors found on board neutral ships, or "*passing into foreign countries,*" "*ou passant en pays étrangers,*"—this must intend found on board foreign ships on the HIGH SEAS—and surely the second section can have no other possible interpretation, because it applies to French seamen, who "*having passed into foreign countries,* shall be arrested."

Lest any person disposed to cavil, and without examining the question closely, should pretend, that these sections allude to *seamen* found on board enemies vessels—I answer, that upon seamen in that case, the pain of death is inflicted, and the first cited section of the edict of 1784, explicitly provides for a case when *France is at peace.*

We shall now shew that France pays no regard to the *naturalization* laws of other countries, at least so as to deem them a protection to the *subjects of her enemy*, who may have been naturalized during the war in neutral states—and yet she naturalizes foreigners herself—thereby proving what we have stat-

ed above, that nations by conferring the privileges of naturalization do not understand, that they give the person any protection out of their own territory, that they do not admit that it is in the power of a neutral to protect the native subject of an enemy against capture, and *a fortiori* not the native subject of the belligerent captor against his own sovereign's claim.

By an ordinance of July, 1704, it is declared that "No passports granted by *neutral princes*, either to owners or masters, who are *subjects of our enemies*, shall be valid, unless they shall have been naturalized and have transferred their domicile before the *present war*."

This edict is confirmed and continued by another in 1744 and in 1778.

If the simple principle of this edict should be acceded to by our government, there would be an immediate settlement of the differences with Great-Britain. She would be probably very willing to admit, that such of her subjects as were naturalized *before the war* should be protected under our flag. It ought to be observed, however, that this would be gratuitous on her part, because she, as well France, contends for the perpetuity of allegiance.

By a decree of the French republick, in the very height of her pretensions for free principles, dated Frimaire, an. 5th, it is provided, that "All captains of *neutralized vessels* shall prove by certificates of their own minister near the French court, that they were *born in an allied or neutral country*, under pain of being treated as spies."

Here the right of expatriation and the protection of naturalization are denied.

Let us pause here a moment—William Duane, an Englishman naturalized in America, would by the above edict be liable to be hung as a spy in France, notwithstanding his letters of naturalization, and his being covered by the American flag: yet Mr. Madison contends that this same William Duane would

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be perfectly protected on the high seas by this same paper against his own *natural sovereign*.

By another decree, 8th Brumaire, an. 7. it is provided, that

"All individuals, natives, originating in the countries of our allies or neutrals, who shall bear a commission from our enemies, or make a part of the crews of vessels of war, or OTHERS, shall be for this single fact declared pirates, and treated as such."

Both G. Britain and France had, for many years before, invited *foreign sailors* into their service, and had given them the privileges of native born seamen, or, as the French term it, of "*Regnicoles*," yet neither nation understood, it seems, by that stipulation that they could protect them either against their being punished for such entry, by their own sovereign, or their being treated as pirates by their enemies.

By an edict of the year 6th, Ventose 8. it is declared,

"That all English sailors, on board *neutral flags*, in the ports of France should be arrested;—and every man who spoke the English language should be considered English, unless he could prove by authentick evidence and documents, that he was American."

Here we see, what would be the state of our *protections* with a vengeance, had France been able to keep her fleets at sea during the war. Every American or person speaking the English tongue, would be *presumed English*!!

I shall not cite, as I could, many other edicts tending to prove the same points, but shall conclude with stating one out of many cases in which France has carried these principles into effect on the high seas—that we have not a thousand cases of the kind is because her ships are scarcely ever at sea, and we have not 50 French seamen in our employ. In the year 1806, Admiral Willaumez in a French ship called

the *Foudroyant*, met with an American brig and forcibly took out four French seamen, who had entered in this country :—not content with *impressing them*—he wrote as follows to Gen. Turreau, Ambassador of France :—

“My Lord—I have just apprehended four seamen deserters, from the *Valeureuse* frigate, which I found on board an American brig, where they had engaged at 17 dollars per month.—Now, Sir, if you can succeed in making the American government pay down a compensation for thus seducing our seamen, you will punish it in a manner it feels most its avarice, as those people have been for three years seducing our best men from us.”

Here we see the doctrine—the practice—and the spirit to make us pay for it!!!

NO. IX.

THE SEQUEL OF MR. RUSSELL'S CORRESPONDENCE WITH
LORD CASTLEREAGH.

It had been my original intention at this time, to have laid before the publick the negotiations between Mr. Monroe and Mr. Pinkney, and Lords Holland and Auckland, and to have shewn, not only the strong disposition of Great-Britain so to arrange the practice of taking out *British seamen*, as to afford little or no cause of complaint to this country, as also the almost insurmountable difficulties which then presented themselves.

It will appear from this negotiation, that our government knew the full extent of these difficulties, and that they could therefore very easily impose, if they were so disposed, on the American people, by renewing the general propositions in vague and indefinite terms, while they were sure that when they should come to the details, there were a thousand points

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which could be started, which would defeat an ultimate arrangement.

In this spirit, we shall now shew, that the late negotiation was probably undertaken, and that so far from proving a disposition to make peace, or to arrange amicably the question of impressment, it affords to my mind the most decisive proof of the opposite intentions.

I am obliged to postpone the consideration of the former negotiation, in order to take a review of the documents which have been given to us by piece-meal, since these essays were commenced.

It will be recollected, that I undertook to shew in my early remarks, that Mr. Madison required of Great-Britain an absolute and entire relinquishment of the practice of taking her own seamen, as a preliminary to an armistice, and that he offered, in return, the barren assurance that Congress might, if they should see fit, make a law excluding British seamen from our vessels, without defining either the terms of such an act, or what we should understand by British seamen.

We also proved, that the *explanatory and last instructions* given by Mr. Monroe to Mr. Russell, and under which alone he had any authority to treat, still renewed the offensive condition of a *previous renunciation* by Great-Britain of the *right*, as a preliminary to a negotiation about the *manner*, in which she was to be indemnified against the certain loss of her mariners.

We have been indeed since astonished and humbled at the boldness of our charge de affaires, Mr. Russell, in asserting in his last letter to Lord Castlereagh, to which no reply could have been given from its date, that he had made an offer of a *simultaneous relinquishment* of the British right to take their own seamen, and of our practice, our unkind, impolitic and unneutral like practice of soliciting and employing these subjects of a foreign state.

My first reflection was, that Mr. Russell had kept back from Lord Castlereagh his *limited* powers, which forbade his making such an offer, and that he fondly entertained a hope, that *overleaping* his authority, he might have the honour, against his orders, and in direct disobedience of them, of restoring peace to his suffering country.

With this impression, I again reviewed his instructions, and I became again convinced that he could not mistake them. The absolute, entire, and full renunciation of the practice, was required as preliminary to any sort of negotiation, and must *precede* the settlement of the terms on which we should refuse to employ *British sailors*.

Imagine then, fellow-citizens, what was my surprise in perusing the late letter, probably gotten up at Washington, in which Mr. Russell states that he communicated his instructions, limited as they were, in *extenso*, and that Lord Castlereagh "*read them over attentively.*"

Instructions, which simply authorized him to renew the very same offensive proposals which had before been rejected.

That the people may understand the nature of Mr. Jonathan Russell's *familiar talk* with Lord Castlereagh, it is proper here to premise one or two remarks.

By a declaration of war, all the functions, power, and authority of ministers cease. Our own cabinet refused to accredit Mr. Baker as *chargé d'affaires* appointed by Mr. Foster *after* the war—see the correspondence on this subject.

Mr. Russell was therefore in London as a private American merchant. When he carried a letter from Mr. Monroe to himself, after the war, to Lord Castlereagh, he did it as an individual American. He could say no more for his government than the *letter said*—If he *promised* any thing, it was Mr. Russell's promise, and no better than Mr. Williams', or any other American citizen in London.

Mr. Monroe's letter then is the *true and only* proper evidence of the offer, and Mr. Monroe required Great-Britain instantly to renounce her practice of taking her own seamen, on the assurance that Congress *might*, but that the President could not, by our laws, stipulate that they *would* pass a law *something about* the employment of British seamen.—As to what that law should be, Mr. Monroe *was* silent, and permit me to add, he was *properly* silent, for it was not in Mr. Madison's power to say that he himself should be President, much less to decide what Congress should or should not do.

This, then, is the *famous offer to Great-Britain*—Withdraw your practice, consecrated by your own usage and that of all other nations for two hundred years, and *then* we will appoint *commissioners* to agree upon the *terms of a law* to exclude British sailors from our vessels, and if those commissioners shall make *such terms* as shall be agreeable to Congress, it is *probable* that that body will pass a law in conformity thereto.

We wish then the publick to consider Mr. Russell's offers as *nothing* and *less than nothing*, so far as they exceed his explicit instructions.

There is one other consideration on this subject, which deserves the most serious attention.—This question had been discussed between the two nations for 20 years. To expect that Great-Britain would yield to our *arms* before any blow had been struck, what she had refused to our arguments and pacifick offers, is to suppose, that she is the most cowardly and humble of all nations. If we had offered a cessation of hostilities, and a *free* discussion of the question of impressment, without demanding the *recognition* of its injustice, something might have been expected.

I have now, however, only begun with Mr. Russell's new and well-contrived communications. These remarks are merely introductory. One proposition all reasonable men will admit, that it is safer,

much safer, to *trust to that part* of the official correspondence where *both parties* are mutually heard in their *own language*, than to any *ex parte*, subsequent, unanswered representations of *one of the parties*.

This remark has the *more force*, I beg the people to attend to it, when the person who gives the subsequent and *ex parte* statement depends on a *government for his support*—which government has waged an unnecessary war, and is determined to support it from a regard to consistency, as well as from the original *unaccountable motives*, which urged it to declare such a war. Such a man, so pensioned by the government, I mean in its pay, is the less to be trusted, when he avows that he thinks his statement ought to unite all men in a *vigorous prosecution of the war*. He ought still more to be distrusted, when his statement is offered under such suspicious circumstances as to *date*, purporting to be dated at London, on the 17th of September, when on the 19th of that month he writes, that he has not had time to communicate it.—It will be thought worthy of still less confidence, when I shall shew, that he begs pardon for having made it without authority, and when he plainly intimates that he made it with very little hope of its being accepted.—It will then be deemed, I believe, a mere *ruse de guerre*.

NO. X.

THE SEQUEL OF THE CORRESPONDENCE BETWEEN MR. RUSSELL AND LORD CASTLEREAGH.

EVERY fair man and every friend to honourable Peace, every one who is ready to admit, that as our government plunged us into an offensive war, not only before we were duly prepared for it, but when, from recent events in G. Britain, it is apparent, that it might and ought to have been avoided, will agree

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with me, that it is at least possible, that the same administration, urged by the same motive, may have made a *shew* of pacifick proposals, without any sincere design to have them accepted. I ask not for your jealousy, my fellow citizens, I only request your candid and impartial inquiry into the pretended offers for Peace.

You will then agree with me, that it is necessary to make a marked discrimination between the *written proposals*, and the *written answers*, and any verbal and oral communications, which may have been misunderstood, and most easily misconstrued and misrepresented.

I shall, however, examine *both*, and I feel the most unlimited confidence that both of them will result in a conviction that no Peace was expected or wished for on the part of our administration.

First, then, we will examine the *written correspondence* between Mr. Russell and Lord Castle-reagh, after the former had received his last, and as he calls them, most liberal instructions from Mr. Monroe.

Mr. Russell's *only* letter containing proposals after he received his last instructions, is dated the 12th of September, in which he proposes, "A convention for the cessation of hostilities, to take effect at such a time as shall be mutually agreed upon, and stipulating that commissioners shall be appointed with full powers to form a treaty, which shall provide by reciprocal arrangements, for the security of their seamen from being taken or employed in the service of the other power."

These are the precise words, and we admit that this part of the letter does not seem to imply that G. Britain should yield the right as a *preliminary*. If this had stood alone, G. Britain could not have refused the offer justly, except on the ground that Russell was not only not authorized by the instruc-

tions which he communicated to Lord Castlereagh in *extenso*, but he was explicitly restrained from such an offer—Such an objection, if made, would have been *unanswerable*, and it is the very answer which Lord Castlereagh *did make*.

Peruse, my fellow-citizens, these instructions, and take with you, the fact that Russell's diplomatic powers had wholly ceased, and then see whether the refusal of Great-Britain is any proof of her being unwilling to adjust this question with any person duly authorized to treat with unlimited powers.

But this is only a small part of the case—Russell did not dare to violate in so open a manner his instructions—He therefore added, "In proposing to your Lordship *these terms*, I am *instructed* to come to an understanding with his Majesty's government, without requiring it to be *formal* concerning impressments *comprising in it* the discharge of citizens of the United States already impressed."

What were the commissioners then to consider? Whether Great-Britain should relinquish the right? No—*That* she was to agree to do by a clear but informal understanding.

The Commissioners were afterwards to agree, if they *could*, to some arrangement to supply the place of impressment.

I can liken this case only to a familiar one in private life—One man claims a right of way over his neighbour's land—the other denies it. The latter offers to leave it to men, to say what compensation he shall receive for the relinquishment of it, but, says he, you must *first come* to an *informal understanding* that you have no right of way, and then I will leave it to men to agree, if they can, what shall be an equivalent to you for giving it up.—This however is not so strong as Mr. Russell's proposals. To make it equally absurd, you must add,

"After the referees have agreed upon the compensation, I must be at liberty to say, whether I will give it or not, because I am a man who am not in the habit of agreeing to or abiding by the decisions of any one."

Is this the language of Mr. Russell? Is it possible that he could have said this to Lord Castlereagh? He did say it. "Your Lordship is aware that the power of the government of the United States to prohibit the employment of British Sailors must be exercised in the spirit of the constitution." Or, as it was more fully explained in his instructions, "Congress might, and it is probable that they would, fulfil the contract made by the executive."

From this view of the *only written* offer made to Lord Castlereagh, under the last liberal instructions, it is manifest, that commissioners could not be appointed until Great-Britain had clearly but informally pledged her honour to abandon the practice of taking her own seamen; that the commissioners had only the power to agree, if they could, upon a *substitute*—and that after all Congress might say that the spirit of our free constitution forbade them to refuse to naturalize any British seamen.

Lord Castlereagh received these offers as any honest plain man of common sense would receive them—he considered them as only a covert mode of renewing the same proposals that had been rejected, and that they delivered up Great-Britain bound hand and foot into the power of Mr. Madison.

Here the negotiation in writing ended.

Mr. Russell, however, thought that by a familiar unofficial conversation, he could persuade Lord Castlereagh to abandon his ground, and he has given to the publick the minute remarks of each party in this conversation.

We must repeat that in a case of such vital importance, where a strong partizan of administration un-

dertakes to represent the terms and precise expressions of a foreign minister in a long conference, and where he shows a disposition to give the most unfavourable turn to the whole discussion, much allowance ought to be made. Much allowance for misapprehension—much for prejudice—much for the mortification of a young man in failing to effect a favourite object where he avows he acted without authority.

Much ought also to be allowed for the mistakes of a very inexperienced diplomatick agent, who got into his office in a very unusual manner, converted from a supercargo into a sort of minister, and who, according to his own avowal, ventured to do what Mr. Madison said he dared not do, that is to stipulate in behalf of Congress what sort of a law they would hereafter pass as to naturalization.

Besides this, Mr. Russell has been before the publick in a former case, and few of us have forgotten his most memorable letters from France—while with a truth and spirit, becoming the representative of an honourable and impartial nation, (I do not say administration) he was telling the French government, that there had not been a single case which proved the *repeal* of the French decrees, he wrote to our minister in Great-Britain that there had not been a case which rendered their *repeal* doubtful.

We do not quote words—we adhere to the substance—the whole is upon record, and let Mr. Russell's consistency and credit be tested by his writings. At present, however, we shall presume his account of the correspondenc as correct as could possibly suit his employer, Mr. Madison.

And what results from it? We shall state:

1st. It appears that Lord Castlereagh saw his whole instructions, and *read them over attentively.*

2dly. That he objected to treating with Mr.

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Russell, because he had no authority whatever to negotiate on the subject, beyond his mere letter from Mr. Monroe.

3dly. That Lord Castlereagh frankly stated the insurmountable objections which had formerly been made to the renunciation in toto, of the practice of taking British seamen, and that no British minister would dare to surrender so undoubted and long exercised a right.

4thly. That Mr. Russell very offensively, and we should say very petulantly and insultingly, compared the British practice of taking their own seamen, to the *slave Trade*; thereby intimating that a British subject serving his king and country is in the condition of a *West India* or *Virginia* negro.

5thly. He charged the British government with gross inconsistency in keeping up the practice of impressing their own seamen, while they abolished the *Slave Trade*—thereby indecorously and unnecessarily attacking and interfering with the municipal laws and usages of Great-Britain.

6thly. He unjustly and insultingly charged Great-Britain with claiming the right to impress American citizens, which she has openly and frequently denied, always restoring such as have been taken by mistake.

But lastly, (and the most important of all his strange proposals) he claimed the right, without authority, of retaining all *British subjects now naturalized*, and undertook to stipulate that Congress would not in future protect any British seamen.

The whole of this last proposal was not only without authority, (and he apologizes for it as such to his own government) but it was in direct opposition to his instructions, which directed him to assure Great-Britain that the President could not by the constitution, stipulate for Congress.

Why then was it made? He gives you the reason—because he thought it would unite all Americans in favour of the war—and because he knew his want of authority, and the extravagance and looseness of the terms would, as they did, secure the rejection of them by Great-Britain. He had probably an ulterior reason—He knew it did not in any degree *commit our cabinet*, who rejected, without ceremony, a treaty lawfully made with full powers, by Monroe and Pinkney, while it might, as it probably has done, recommend him to them as a man well fitted for the purposes and views of a cabinet, which has plunged the nation into ruin and disgrace, and which appears resolutely bent on continuing the same ruinous system.

NO. XI.

THE IMPORTANT NEGOTIATION OF MESSRS. MONROE AND PINKNEY IN 1806, AS TO IMPRESSMENTS.

IT is impossible to understand the true merits of the question of Impressments, and of the offers made between the parties at different periods, without a thorough examination of the negotiation between the Fox ministry and Messrs. Monroe and Pinkney.

We may lay it down as a settled point, that whatever THAT ministry so favourable to America, for so many years our defenders in Parliament refused to concede, whatever *especially* they declared that no British minister would *ever dare* to cede, never will be granted even at the end of a war, until the British naval power shall be broken down. Our government know, and it is our present object to show from documents, that the most favourable British ministers have declared, that on no terms whatever can they ever yield to any nation their *right* to take

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their own subjects out of neutral ships, on the high seas.

If therefore *we* insist that any treaty of peace, even a definitive one, *must stipulate* that Great-Britain shall *renounce this right*, (we care not what terms of compensation or compromise are offered for its renunciation) we are persuaded that peace will *never be made*. This our administration *well know*, and therefore this renunciation will be made a *sine qua non* of a treaty, let Great Britain offer, as she has done, the most honourable propositions for the prevention of abuse, in the exercise of her *right*.

This conduct of our Administration is, in effect, nailing the flag to the mast, and the ship must go down, if the people are weak or prejudiced enough to believe, without examination, that our flag, by the law of nations, ought to protect all who sail under it, and that Great Britain advances principles against us, which she maintains against no other nation, and no other belligerent nation maintains; the reverse of all which is precisely the truth.

We know we shall alarm some timid men, when we say, that we fear peace will never be made if, upon any terms or on any conditions, we require the absolute relinquishment of the right to take British native subjects out of our merchants, ships on the high seas.

But we see no advantage in self-deception. We shall never make up our minds either to fight ad internecionem, to extermination, for this principle, or to make a peace without obtaining it, until we do understand that it *never will be yielded*. Then men will begin to think—they will then weigh the justice of the British claim—its antiquity—its universality—its true importance to us—the exaggerated picture which has been drawn of it—on the other side its being so essential to the *vital* interests of our enemy—the prosperity we have enjoyed for

twenty years under its exercise—the gross abuses of protections for sailors—as well as the great facilities for naturalization—the doubtful benefit of the encouragement of foreigners at all—the *certain* disadvantage to our native mariners by the competition—by the difficulty of discrimination which draws even *natives* into danger—by the little reliance you can place on the fidelity of *men* in case of war, who are fighting against their *own* sovereign.

Such arguments will have their due weight when we *once know*, that the *war must be eternal*, or we must abandon our claim on Great Britain to renounce her *natural, moral, equitable* right over the services of her own subjects.

Our government perfectly well understand this, but they know the people *do not*, and therefore they continue to make the *parade of offers, which have been over and over again rejected*, as it is our business to shew. The correspondence on the subject, at the time of the negotiation in 1806, comprises sixty or seventy pages, we shall therefore arrange the points which appear to be fairly deducible from that negotiation, and give short abstracts under each point.

1st. Then, it will appear that G. Britain absolutely and explicitly refused to renounce the right of taking her own seamen, and our ministers were persuaded that it never would be renounced.

2d. We shall shew, that her negotiators made very honourable offers to ours to render the exercise of her right as little injurious as possible to us.

3dly. That our negotiators deemed these offers liberal, and were of opinion that, *substantially*, they gave us all that we could desire—they were convinced that they were the best modifications short of a surrender of what Great Britain tenaciously insisted upon as an absolute right.

4thly. It will appear that our ministers were se-

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erely reproved for their liberality, by our cabinet, and in lieu of the informal arrangement made before, they were instructed to propose an article precisely in the spirit of Russell's late *unauthorised offer*, that is, that we would protect all citizens whether natives or not, but we would not employ any Englishman until he had gone through the farce of naturalization.

We think this display will shew, that our government are well persuaded they can fearlessly, and *without danger of peace*, (the thing they most dread) make as many offers as they please, so long as they insist on the *renunciation* of the *right*, and on the validity of our *naturalization laws* to wash away the duties of natural allegiance—duties, in which more writers on the law of nations are agreed, than in any other principles whatever.

1st. It appears from Mr. Monroe's and Mr. Pinkney's correspondence, as to the aforesaid negotiation, that Great Britain refused to yield up her right, and it was apparent she never would yield it on *any terms*.

In a conference of Monroe and Pinkney with Lords Holland and Auckland, on the 22d August 1806, these noblemen, who were very friendly to our nation, observed, "that they felt the strongest *repugnance* to a *formal renunciation* of their claim to take from our vessels on the *high seas* such seamen as should appear to be their own subjects; and they pressed upon us with much zeal, as a substitute for such abandonment, that our crews should be furnished with authentick documents of citizenship of a nature and form to be settled by treaty, which should *completely protect* those to whom they related, but that, subject to such protections, Great Britain should continue to visit and impress *as heretofore*," (that is their own subjects.)

"They enforced this by observing that they sup-

posed our object to be to prevent the impressment of *American seamen*, and not to withdraw *British seamen* from the service of their country, in times of *great national peril*, in order to employ them ourselves; that their proposal would effect this object, that if they should consent to make our commercial navy an *asylum* for all British seamen, the effect of such a concession upon her maritime strength, on which Great Britain depended, might be *FATAL*."

It is evident from this extract, that even the Fox ministry, so favourable to America, *never could think of yielding the principle*. It is apparent also, that they were willing to adopt, and did offer, a very fair expedient to *remedy abuses* in the exercise of the right. Lastly, it seems from this extract, that G. Britain is not so much opposed to this relinquishment on account of the number of her sailors, *now in our service*, as from her *fears*, that as soon as our navy shall by *treaty* become an *asylum*, no stipulations on our part can prevent its being abused to the utter destruction of her marine power.

On the 11th of Sept. our ministers write that they consider the objections of Great-Britain such as will not be surmounted.

"All our efforts, they say, proved ineffectual. The right was denied by the British commissioners, who asserted that of their own government to seize its subjects on board neutral merchant ships on the high seas. And who said, that the relinquishment of it at this time would go far to the *overthrow of their naval power*, on which the safety of the state *essentially* depended."

Our ministers at the same interview, in Sept. 1806, proposed as a substitute the restoration in future of all British deserters even, from their merchant service—to this proposal the British ministers appeared to listen, but they said it was necessary to consult their law officers, and the result was as our minis-

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ters state "a rejection of the project and with it all hope of obtaining at that time any satisfactory stipulations respecting Impressments."

At their next interview the British commissioners presented the report of their crown officer, declaring his opinion "that Great Britain had a right to the services of her own citizens, and to take them out of neutral merchants' ships on the high seas—that as merchant ships were extra-territorial they were not admitted to possess such a jurisdiction as to protect British subjects from their own sovereign—they stated further that the admiralty and all the crown officers had been consulted and they added explicitly, though in a very conciliating manner, that it was not in their power to accede to our proposal, and that all the law officers united in the opinion, that the *right* of their government was *well founded* and *ought not to be relinquished*. They added that under such circumstances, the relinquishment of it was a measure which the government *could not adopt* without taking upon itself a responsibility, which *no ministry* could be willing to meet, *however pressing the emergency might be*."

Here ended the negotiation as to the *absolute renunciation of the right*, and we ask all candid men whether we have not fully maintained our first point, that this negotiation proved that Great Britain will never *relinquish the right*, however pressing the emergency may be.

Let it be considered who were the British negotiators—men, who for ten years had condemned the Pitt ministry for their unbending, unconciliatory conduct towards America—men whom Monroe most extravagantly praised—men upon whom Mr. Madison himself has since repeatedly bestowed high eulogiums. Yet these men declared that such were the feelings of the British nation—so united were all its civilians on the justice of their claim, that no minis-

try would ever dare to relinquish it. And do we say that she never will in any event relinquish it? NO—She may do it, not because the Canadas shall be wrested from her—but she may do it, when the American flag shall ride triumphant in the Downs, when our Navy shall have acquired the supremacy which hers now possesses on the ocean, and when the wishes of France for her downfall shall be accomplished.

NO. XII.

MR. MONROE AND PINCKNEY'S NEGOTIATION ABOUT IMPRESSMENTS.

DURING Mr. Fox's indisposition, which ended in his death, our ministers had one interview with Lord Grenville—and I quote it to shew, that another leading man in the same nation had the same feelings as Lords Holland and Auckland. His Lordship said he "Had doubts of the practicability of devising means of discrimination between the seamen of the two countries within their respective jurisdictions, and he spoke of the importance to the *safety* of Great-Britain, in the present *state of the power of her enemy*, of preserving in their *utmost strength*, the *right* and the capacity of government to avail itself *in war* of the services of its seamen. These observations were connected with professions of an *earnest wish*, that some liberal and equitable plan should be adopted for *reconciling the exercise* of this ESSENTIAL RIGHT with the just claims of the United States for removing from it all cause of complaint and irritation."

Not one word about the renunciation; on the other hand the most firm and deliberate purpose of adhering to it, on the most deep and solemn considerations. If British statesmen believe it to be a *right*, and a *right essential to their safety and existence*, is it not idle to expect a formal renunciation of it?

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But we have said, secondly, that the British commissioners have made very honourable offers for such arrangements as would take away all just cause of complaint.

One of these we have already noticed, and that is, that a *form and mode of protection* for American seamen should be agreed upon by treaty, and that *no seamen* possessed of one of them should be impressed.

If the object of Mr. Madison was only to protect *bona fide* Americans, one would imagine this might have answered.

On the 11th of September, after the British commissioners gave in their *final declaration*, that no British minister would ever dare to concede the right, they, the British commissioners, presented a counter project, reciting, "Whereas, when one nation is at war and the other at peace, it is not lawful for the belligerent to impress or carry off from the neutral vessel seafaring persons who are the *natives* of the neutral country, or others, who are not the subjects of the belligerent, and whereas, from similarity of language and appearance it may be difficult to distinguish the subjects of the two states, the high contracting parties agree for the greater security of the neutral subjects, they will respectively enact such laws as shall subject to heavy penalties the commanders of belligerent ships, who shall carry off the subjects of the neutral on any pretence whatever."

A penalty is also provided for granting *false protections* to seamen.

I confess I can scarcely conceive a fairer offer—It is a most express disavowal of the practice of *taking* Americans, or *any other seamen*, except British. The remedy it offers might be made effectual. If every captain of an American vessel from which any neutral citizen should be impressed, should be directed by law, under heavy penalties, to take down at

the time of shipping any seamen, *his description and place of nativity*, and on the arrival of the vessel at any foreign or other port, he should be required to transmit in duplicates to the secretary of state, and to the publick agent of seamen in London, the names, description, and places of nativity of any and every seamen who shall have been impressed during the voyage, stating by whom and where the same took place—and if the law should direct the secretary of state to send to the place where the seaman so impressed was born, for the certificate of some rector, pastor, or publick teacher, together with one civil magistrate, attesting that such seaman was born in such place, and if it should be agreed by treaty, that such certificate, countersigned by our secretary of state, should be in a trial at law *prima facie evidence of the fact*, and if the treaty should further provide, that the American agent in London should have a right as the *prochain ami* of any seaman to institute suits for the penalty against the captain who should have impressed such seamen, and if the penalty should be *a heavy one*, as was proposed by Great-Britain, and should ensue to the benefit of the seaman; and if moreover the seaman should be instantly discharged on the production of said certificate, we cannot conceive a more perfect security than this would afford against impressments. If the penalty should be 500 dollars, for example, and the government of the United States and its officers should do *THEIR* duty, the seaman would recover it upon an average within twelve months, and there is scarcely a seaman in America, who would not be anxious to be impressed on *speculation*—nor a captain in the British navy who would dare to impress an American. The only danger the seaman would incur, would be the *neglect of his own government*. The remedy in the mode proposed would be certain, easy and expeditious.

But this proposal was rejected—Why? Because it afforded no *asylum* to British sailors.

The British ministers finding this proposal rejected, then addressed a note to our ministers stating, "That instructions had been given and should be repeated and *enforced*, for the observance of the greatest caution in the impressing *British seamen*, and that the strictest care shall be taken to preserve the citizens of the United States from any molestation or injury; and that *immediate and prompt* redress shall be afforded upon any representation of injury sustained by them."

Such is the *famous note* presented by the Fox ministry as their *ultimatum*, and which was so satisfactory to both our negotiators, as to induce them to sign the treaty.

If in addition to these liberal instructions the other proposal or project had been accepted, of awarding a heavy penalty against any British officer who should impress an American, the great cause of complaint, so favourable to the views of an administration that seeks to prolong the irritation between the two countries, might have been long since removed.

We now proceed to shew, thirdly, that these last terms were satisfactory to *our own* negotiators—and that they contained a great deal more than *meets the eye*—because, although Great-Britain declined a relinquishment of the claim, yet the "high seas" were purposely omitted in the proposal, and it was understood that the right would only be exercised in the British territories.

Our ministers, speaking of this offer, say, "That it was sent to us as a publick paper, and it was intended we should so consider it, and with the knowledge and approbation of the British cabinet. It ought therefore to be held as obligatory as if it had been stipulated in a treaty. It is just also to give it a liberal construction, in consideration that it is the act of the British government. In that view it merits attention, that every thing is expressed in it that *could be desired*, except the *relinquishment of the*

principle—"that in speaking of impressments, the exercise of that act on the high seas is omitted, an omission *we know* to have been intentional."

Two years after this *fair* proposal—I call it *fair*, because our *present* attorney-general, Pinkney, and our *present* secretary of state called it so—Mr. Monroe addressed a letter to the President, Mr. Madison, on the same subject, in which he says, "That the subject of impressments was placed by that note of the British commissioners, on ground both *honourable and advantageous* to the United States. That the term "high seas" was *omitted intentionally* and with the view that impressments should be confined to the *land*"—that is to the British territory. He said "he did not mean to say that Great-Britain would *abandon the practice* on the high seas *altogether*, but that she would abandon her former practice, and only exercise it in an extreme case, such as the desertion of a crew in a foreign and neutral country."

Now we ask most significantly, for what we are at war? For a principle which Great-Britain has declared she *never will yield* absolutely, but which she has offered to modify, and check, and guard, and restrain, in such a manner as to *two of our present cabinet* appeared perfectly "honourable and advantageous to us."

We are then fighting for a principle, an abstract claim, which has been in every "honourable and advantageous" light yielded by our enemy.

As soon as our cabinet found that Great-Britain never would *yield the principle*, but that she would make such an arrangement as would be "*honourable and advantageous*," they determined to adhere to, and insist on the *abstract principle*, and to yield the "honour and advantage."

Perish the seamen—perish commerce! but let us adhere to *barren and useless rights*—This was what I was to shew *lastly*. Accordingly, on the 8d of February, 1807, when our cabinet found Great-Brit-

ain was ready to yield every thing but the principle—that all *just cause of complaint* would be removed, they determined to defeat the arrangement, and ordered our ministers to insist on the *mere right* and to propose, as Mr. Russell has lately proposed, “that the British government should relinquish her right on our stipulating that we would not employ any British seamen, not being a *citizen*, that is, not naturalized, or unless he has been in our employ *two years*.”

Here ended all hopes of accommodation; and our government well know that they may safely offer the exclusion of British seamen, so long as they claim the right to protect all who are now in our country, and demand of her the admission that her *native born subjects* shall be protected under our flag in merchant vessels on a common jurisdiction, the high seas. The great point we have in view is now proved, That at no period has Great-Britain been willing to *yield the right*, though she has made “honourable and advantageous” offers for a modification of its exercise.

We cannot conclude this essay without quoting the following sentiments of Mr. Monroe on the subject of the British offers about *impressments*, and the *folly of war* on that account. They ought to be written in letters of gold, and those letters in capitals.

“The British COULD not RECEDE from the ground they had taken, or accept, by *compulsion*, terms which they had rejected in an amicable negotiation. WAR, therefore, seemed to be the inevitable consequence of such a state of things; and I was far from considering it an alternative to be preferred to the *encouragement offered to us*. When I took into view our prosperous and happy condition, and that our commerce flourished beyond example, notwithstanding the losses which it occasionally sustained, I was *strongly* of opinion that those blessings ought not to be hazarded in such a *question*,” I knew “that the United States were not prepared for war—their coast was unfortified—their cities defenceless—their militia

in many states neither armed nor trained—and their whole revenue derived from commerce—I could *not presume* there was just cause to doubt which of the alternatives ought to be preferred.”

In these opinions Mr. Monroe is joined by above sixty thousand people in Massachusetts, according to the late elections, and probably some millions in the United States; yet the war is now carried on by an administration of which he is one, for the very principle which he formerly declared was *not worth it*.

NO. XIII.

MR. MADISON'S STRICTURES ON THE CONDUCT OF GOV.
STRONG.

ARE the militia under the absolute control of the President of the United States?

Are they bound to fulfil all the duties of standing armies?

Does a *mere declaration of war* place the militia under the power of the President?

Is there no constitutional right in the executive, judiciary, and people of the several states to judge whether the militia are or are not constitutionally called into service?

Can they be continued in service at the pleasure of the national government, and ordered out of the United States?

These questions are the most interesting which could possibly occur in our new republic. The President has dared to call the opinion of Gov. Strong, supported as it is by our own state judiciary, “a novel and extraordinary one.”

That it is a “novel” one is true, because Mr. Madison is the first President who has ventured to give an alarming and dangerous construction to the powers of the constitution.

If *his* construction be right, we never need talk in future of the consolidation of the states—The state sovereignties are extinct. We have one vast military consolidation; and the only remedy and bulwark, which the constitution provided against the usurpation of an ambitious and unprincipled President, is gone. The state governments have nothing left to them to resist any and every species of usurpation.

Compared to this, all our foreign disputes dwindle into insignificance. If this doctrine, advanced by Mr. Madison; if this bold assumption and usurpation be submitted to, it is, in our estimation, of no moment whether we are conquered by Great-Britain or France; we shall fall a prey to our own domestick usurpers, who will be as hard task-masters as a foreign potentate could possibly be.

That an attempt is seriously making to destroy the state sovereignties, and of course the union, we shall prove by two quotations from papers published under the influence and patronage of administration.

In the National Intelligencer, Mr. Madison's paper, speaking of the refusal of the New-York militia to march out of the United States, to wage an offensive war, it was observed, "that these *wretches* (the militia) dared to talk of the *constitution*, when their country was in danger."

As if a *Quixotick expedition* into a foreign country was a proof that the country was in danger—and as if it was also a crime in a citizen to shield himself, his blood and his life, his liberty and his family, under the sacred provisions of the *constitution*.

It would seem, then, according to Mr. Madison's paper, that the constitution is to be no safeguard to the citizen when he most needs it, but that to invoke its aid and its principles makes a citizen "a *wretch*."

The Aurora, another Madisonian paper, carries its insolence still farther.—Speaking of the people of New-England, it says,

"Can these infernal traitors expect to escape with impunity? They have no foundation for such forbearance, while they are daily guilty of treason by adhering to our enemies. But we do not fear them, for they are a cowardly set of villains. Neither the Governor of Massachusetts or Connecticut dare fight."

Fellow-citizens, we do not quote these things to inflame your minds, or to excite your rage, but to shew you that your adherence to the constitution, and to your rights, expose you to the insults, and scoffs, and contumely of your opponents. Not content with destroying your commerce, they seem ripe for the invasion of your most sacred rights.

I should despise these rash writings, if it were not that they are countenanced by the President's Message.

It is, therefore, important for us to inquire whether Gov. Strong has acted imprudently—whether our own Judges have given a corrupt or wicked opinion? Whether the question is so clear on the side of Mr. Madison, as to justify him in denouncing Gov. Strong and Gov. Griswold?

This is a great and important question—and it ought to be treated with correspondent and becoming seriousness and deliberation.

Far be it from us to suppose, that we can add any weight to the opinions and arguments of such great and venerable names. But it should be remembered, that men in high and official stations cannot, without lessening their dignity, enter into the office of advocates.—They cannot urge those small considerations, and popular reasons and arguments, which have an essential bearing on the question.

We shall, therefore, with the indulgence of the publick, say a few things on this question, under the following views of it:

1st. How did Congress or the President acquire, from the several states or from the people, the right to order out the militia in any case?

3d. In what cases did the people authorize Congress to call out the militia?

3d. Can they call them out in any other cases than those explicitly authorized by the constitution?

4th. In whom, from the very nature of the *limitation*, reposes the right to judge whether the delegated power is or is not rightfully exercised—or, in other words, of judging whether the cases in which the militia may be called out, do or do not exist?

5th. Admitting, which we do not believe, that the right of *judging* is in the national government; have they exercised that judgment, in the *present case*, honestly and according to the fair construction of the constitution—in other words, do either of the *cases*, provided for by the constitution, now exist?

6th. Admitting, as before, though against our opinion, that Congress have the right of judging of the existence of the limited cases provided for in the constitution, in which the militia may be called out, and supposing that they have grossly abused their trust, as we shall show under the fifth question, is there *no remedy*, or if any, is there any other or better one, than a firm opposition and refusal of the executives of the several independent states?

Lastly. We shall consider the mischievous and ruinous effects which would follow from the doctrine set up by Mr. Madison—Its hostility to the freedom of the citizen, and the absurd and contradictory consequences which would flow from its admission.

We are aware, that we have taken broad ground; but we ought not to be deterred, on that account, from probing to the bottom so interesting and important a question.

NO. XIV.

THE OBLIGATION OF THE CITIZEN TO DO MILITARY DUTY IN ALL WARS, AT THE PLEASURE OF THE PRESIDENT, OR THE CLAIM TO CONVERT THE MILITIA INTO A STANDING ARMY, CONSIDERED.

Firstly—We inquire, by what authority do the President or Congress assume the power to order out the militia in *any case*?

On the revolt of the American colonies from Great-Britain, the absolute sovereignty was transferred from the king and parliament to the *people*. Neither the state governments nor the national government possess any rights which have not been *expressly delegated* to them. As against the *federal* government, this proposition (obvious enough in itself) is made indisputable by the XIIth article of the first amendments to the constitution, in which "all powers, *not expressly* given, are declared to be reserved to the states respectively, or to the people."

The federal government cannot claim the power of *ordering out the militia* as successors to the old confederation, for the old confederation possessed no such powers.—*They* could do nothing with the militia, nor could they even raise troops, without the intervention of the several states. We went through one war successfully, with the whole power of the militia resting in the states.

The federal government cannot claim this power, as being necessarily *incident* to any other power given to them, such as the power and duty of providing for the *common defence*, because, first, there are other and ample means given to them for this purpose, such as the powers of laying taxes, and of raising and maintaining armies and navies;—it cannot be called, therefore, a necessary incident.

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But, secondly, no rule of fair construction will permit a *limited sovereign* to claim, by way of *incidental and implied powers*, the extension of any powers or authority which are the subject of *express provision* in the instrument defining the authority to be delegated. A grant of a *limited power* over a particular subject, *excludes* any further constructive or incidental power over the same subject, as effectually as any words of negation or prohibition could possibly do. Thus, for example, if the constitution had provided, that, "Congress shall have power to raise and maintain a standing army of ten thousand men, or to levy taxes to the amount of two millions of dollars," they would be as much restrained from raising *more*, as if there had been an *express negative*, or prohibitory words in the constitution. They could not have raised more men or money, without the *assent of the several states*, let the emergency have been ever so great, or even if it had been *absolutely necessary* to carry into effect their *undoubted powers*. They must apply to the states or people for further authority or aid. To suppose the contrary of these propositions, would be to maintain that the delegate may be above his constituent—the creature above his creator. It would go to the destruction of all limited written constitutions. It would be better to give to the constituted authorities general powers in *all cases whatever*, and trust to the rebellion or insurrection of the people, for a remedy in case of violent abuse. If these doctrines are, as we believe, indisputable, Congress derives all its power to call upon the militia in *any case*, wholly from the constitution, and that constitution having given them that power only in three specified cases, they are restrained as much as they would have been by prohibitory words, from ordering them out in *any other cases*.

Secondly—I would ask, in what cases did the people authorize Congress to call out the militia?

The whole power given upon this subject, is contained in the following short sentence, clear, strong, and well defined :

Congress shall have power "to provide for calling forth the militia, to execute the laws of the union, suppress insurrections, and *repel invasions*."

They can call them out in *no other cases* whatsoever ; and if they should exercise the power in any other cases, it would be like any other illegal assumption of power, void—and the remedy would be the same as if they were to *separate a state* without its consent—pass a *bill of attainder* against the citizens of a particular state, or exercise any other powers which are expressly *prohibited to them by the constitution*.

I take it, throughout this argument, for granted, that there are no men base enough to contend, that Congress may, from the necessity of the case, the common plea of tyrants, exercise a power *expressly prohibited* to them ; yet from some recent instances I should be led to fear, that there may be some sycophants, who even in such a case would preach up the duty of *obedience to our own government*, and volunteer their arms in defence of its *avowed violation of our rights*.

Thirdly—Can Congress order out the militia in any other than the *three cases* pointed out in the Constitution ?

Most assuredly not, according to the argument under the *first question*.—The argument *ex absurdo* can hardly ever be more strong.—Of what use was it to authorize Congress to order out the militia in *three specified cases*, if they would have the power to order them out in all cases, or at pleasure without that provision ? We repeat, that a *specifick* grant by *one having authority*, to one who before had *none*, is tantamount to a *limitation* to the exact extent of the grant.

But we come to the most important question,

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Fourthly. In whom, from the very nature of the limitation, reposes the ultimate right to judge whether either of the three cases provided for by the constitution does exist?

We answer, generally, in the constituent, not the delegate; in the master, not the servant—*ultimately* in the people, *principally* from the necessity of the case in the commanders in chief of the militia of the several states.

The very idea of *limitation* excludes the possibility that the *delegate* should be the judge—if he were, his powers would be limited only by his own judgment, or in other words, his own arbitrary will, which is no limitation at all.

In most cases, the Judiciary of the United States are the ultimate judges of the constitution, and whether its powers are fairly pursued.—But in *this* case the remedy would be inadequate.—During an appeal to the Supreme Court, which sits but twice a year, and which might consume many months in deliberation, an invasion might lay waste the country, and be fatal to our liberties—or a rash President might seize the militia, send them on board ships, to fight on the borders of the Dwina, or on the sands of Africa—or, if a firm and dignified Governor should *resist such an usurpation*, a headstrong President, and obedient Congress might carry civil war, fire, and sword, into the state which dared to assert their constitutional rights.

There can be therefore *no umpire*.—Either the delegate or the constituent must be the judge. To suppose that the delegate should be the judge would be to pervert the very first principles of common sense, prudence, freedom, and common law.

Of common sense, because of what use is a limitation, if the person you *wish to restrain*, can judge exclusively whether he breaks the limitation or not?—Of prudence and freedom, because if you once permit the delegate to be the judge of his own powers, what

security can you possibly have against the grossest abuses?—At common law too, unless where the authority is coupled with an interest, the power of the constituent is always superior to that of the attorney, or substitute.

Besides, from the very *form* of proceeding, adopted in ordering out the militia, a *form* rendered necessary by the provisions of the constitution, the right of judging seems to be necessarily placed in the Governors of the several states. The orders are issued to them—they must therefore decide, whether the orders are in due form, and whether they are issued in a case which *authorizes Congress to order out the militia*.—In ordinary military cases, the subordinate officer is justified by the orders of his superior officer, whether those orders are right or wrong. But the Governors of the several states are not *subordinate* to the President, *until after* they are *actually in the service* of the United States. For ordering out the militia, which is an act which *precedes* the *actual service*, the Governors are responsible to their constituents, and may, and ought to be impeached if they do it, at the request of the President, in any case, *not provided for by the constitution*.

Now a man cannot be liable to punishment for doing that of which he was not the free judge, to decide whether he would, or would not do it.

I have said that the *form required* by the Constitution made it *necessary* that the Governors should judge whether the militia are rightfully ordered out.—I add, further, that it is not in the power of Congress to dispense *with that form*.—They *cannot authorize* the President to skip over the Governor, and order out the militia, directly, or to issue his orders to inferior officers—because, the President is not vested with the command of the militia, *BY THE CONSTITUTION*, “until they are called into actual service”—and they are not in actual service, until after they have been notified and ordered out. The mili-

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tia Major-Generals can recognize no order, but that of the Commander in Chief of the state; nor can any Brigadier-Generals recognize any order, but that of their superiors in the militia, until after they have been ordered out, and are in *actual service*. Any order, therefore, from the President, would be of no more validity, nor any more justification to an inferior militia officer, for *ordering out the militia*, than a similar order from *George, Prince of Wales, Regent, &c.*

It is not in the power of Congress to *mend* this matter. It can only be effected by an alteration of the constitution. We know the President and his satellites *argue from the possible abuse* of this power, by the Governors of the several states against the right. "We are *not one state*," says the President, if this "novel" doctrine be true. It is not a "novel" doctrine that we are *not one state*—It is a "novel" doctrine that we *are so*. It is an insolent and open attempt at military consolidation.—We shall say more on the subject of abuse of this power hereafter.

NO. XV.

THE SPIRIT DISPLAYED BY THE PRESIDENT AND WAR DEPARTMENT IN THEIR CONSTRUCTION OF THE CONSTITUTION, AND THEIR REPRESENTATION OF THE DANGER OF INVASION.

FIFTHLY.—Admitting, which we DENY, and have *disproved*, that the right of judging, when the cases occur, in which the militia may be ordered out, rests definitively with the President and Congress; have they in the late orders to the Governors of Massachusetts, Connecticut, and Rhode-Island, honestly executed the trust, in the fair spirit of the constitution—or in other words, do either of the three cases exist?

As it is not pretended by the President, that the

troops are ordered out, in consequence of the existence of the *two first cases*; as it is well known, that the laws are not forcibly resisted, nor has any insurrection taken place, the only remaining question is, *Has there been at any period or does there now exist an invasion to be repelled?*

It would be the duty of a man addressing a society of Hottentots, or Caffee Negroes, to beg their pardons, for paying so poor a compliment to their understandings, as to discuss this question seriously; but since the President, who ought to know the character, and talents of his constituents better than we do, has ventured to insult their understandings, by pretending, that this case of invasion, or imminent danger thereof, has existed, in the true spirit of the constitution, we trust, we may be excused, for arguing a question, which every school-boy, and every timid girl, on either of the most exposed frontiers, would laugh at and ridicule.

The words of the constitution, have a wonderful legal precision, which one would have supposed, would have precluded even a Jesuit from cavilling:—"Congress shall have power to provide for calling out the militia to REPEL invasion."

The invasion must actually exist, and the militia, can only be kept in service, so long as is necessary to REPEL it. The moment it is *repelled*, the Commanders in Chief of each state, have a right instantly to recall them. It seems as if there was, (and there most undoubtedly was) an uncommon *jealousy*, as to the power of the federal government, over this natural, and only constitutional bulwark, of the several states, and of the people.

Lest the militia should be ordered out, *prematurely*, or in case of *war*, generally, it was provided, that they should only be called out during foreign wars, in case of "*invasion*"—and lest, when once in the service of the United States, they should be contin-

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ued during the war, or longer than the great, and sudden exigency required, it was provided, that they should only be obliged to "*repel*" invasion.

The moment the invader was *repulsed*, the militia had performed all that the constitution required of them, and might, and *ought*, to be recalled by the Governors of the several states—otherwise, these restrictive words have no meaning, and the constitution, might as well have given the *whole* command to the United States, without any limitation.

If, therefore, Gov. STRONG, had trusted to Mr. MADISON'S word, (a trust, which since his proclamation about the repeal of the Berlin decrees, we confess, would be an extraordinary one,) and *had ordered out the militia*, it would have been his duty, as soon as he found, that the danger, had so far vanished, that the commander in chief of the United States army, and all the regular troops, had removed from the maritime frontiers, and had actually entered, or were threatening, the territories of Great Britain, *instantly* to have recalled the drafted militia of Massachusetts. As the guardian of the rights of the people of this state, he is bound to see that their lives, their fortunes, and their rights, are not exposed to greater dangers, than the constitution requires.

As soon, therefore, as all appearance of *invasion* was at an end (*if there ever was any*,) he ought to have recalled the militia.

We are aware, that the Congress of 1795, did give a liberal construction to the constitution, and did authorize the President, to order out the militia in case of "*imminent danger of invasion*."

If this means any thing more, than the *actual advance* of a competent military force of the enemy, towards our maritime, or internal frontiers, with apparent intent, to invade them, the Congress of 1795, were mistaken, and assumed a power, which does not belong to the National Government.

But even this argument, will not avail Mr. Madison ; for grant that the Congress of 1795, were right, and that the words of the constitution, were "*imminent danger of invasion,*" still it is notorious, that no such danger has existed.

What part of the United States, has been threatened with, or in imminent danger of invasion ? shall we disgrace our navy, by admitting, that our ten ships of war, which were, during the *past summer*, superior to the British force on this coast, were unable to repel, predatory incursions ? was there *any danger*, that the commanders of British ships, uninstructed, as they must have been, by their own government, which was ignorant of the war, would make a predatory descent, on the shores of the United States ? besides, were these accidental, temporary, predatory excursions, the "*invasion*" contemplated by the constitution, which the arm of the national government, and its fortresses would be incompetent, to "*repel*?" could it be supposed, that the framers of the constitution intended, that the President, should order out the militia, and keep them embodied, during the whole of a maritime war, through fear of a temporary, occasional descent, by a privateer or a frigate ? are not the *local* militia, while at *home*, amply competent, to repel small enterprizes ? if not, we make a grand parade about our militia, to no purpose, and worse than to no purpose. But this is not so. The militia, called together, *without any previous notice*, drove before them Earl Percy, with 3000 veterans ; and the militia, unembodied until the moment a fleet should appear in our offing, would, in twenty four hours, repel any British force, which *could possibly* come here, without having previous information.

Was there, then, any serious danger in June last, or has there been since, of an "*invasion*" by *sea*, from Great Britain ? did the President, appre-

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hend any ? if he did, he betrayed the country, by sending away the troops, from the place where he *did* except "invasion" to another place, where he *did not* fear it, but where he meant to *make an invasion* on an inferior enemy.

Could it be feared, that Britain would *invade us*, before she *knew of the war* ? could it be feared, that she would do it, *after she* heard of it, and when we found her, liberating, and sending away all American ships, and an immense amount of American property, under the hopes of peace, to be produced by the repeal of the orders in council ? is an "invasion" feared, even now, by any one man in the United States ? NO—it is a groundless, insulting pretence. Great-Britain, occupied in Spain, and in the Baltick, and pressed, unexpectedly and cruelly, pressed, by the tools of France in this country, will scarcely be able to defend her colonies, from butchery, and plunder and conquest. This was the calculation upon which the war was undertaken. It was a repetition of the old fable of the sick lion. Never would the war have been undertaken, if any real danger of "invasion" had existed.

If then, no danger of "invasion" existed by sea, will it be pretended, that we were in danger of "invasion" by land ? where is the brazen faced, party politician, who will advance such a pretence ? will the partizans of Mr. Madison tell us this, when they have so often promised us, the barren provinces of two *Canadas*, as a compensation for the loss of our commerce, our blood, and our treasure ? will those men, who proposed and discussed a bill, for the occupation, and annexation, of the two *Canadas*, to the United States, pretend, that these provinces will *invade us* ? will those members of Congress, Porter, Williams, Cheeves and Widgery, who have promised us the immediate possession of *these provinces*, tell us *we* are in danger from *them* ?

But above all, Mr. Madison is precluded from the apology, because he has sent three distinct armies to invade Canada—and *we have a right to presume* he authorized their commanders to issue the proclamations which they have done, in which they speak with contempt of the enemy's force and power, and of the ease with which the conquest can be effected, a language very disgraceful to our nation, if the prospect of success had not been nearly certain. Besides, Mr. Madison by refusing Sir George Prevost's proposition for an armistice, proved he had no fears of an invasion.

Mr. Madison it appears, then, could not have feared an invasion by sea, because Great-Britain had no *knowledge of the war*—because she liberated American property—repealed her Orders in Council, and was making a new embassy for peace. It appears, also, that he had no fears for the sea board, for he ordered away all the troops for the invasion of Canada. It is equally clear that he did not fear an invasion by land, because he was both making and preparing an invasion of Canada, and he knew Great-Britain had not a force even competent for *defence*.

Yet, in face of the clear sense and spirit of the constitution, he ordered out the militia. This we call an usurpation ; but the manner of doing it we consider a pettifogging quibble. In the first application to all the eastern Governors, it was not stated that there was an "invasion" to be repelled, or an *imminent danger of one*, but when the Governors hesitated on this ground, they were artfully told, that the danger of invasion had *increased* since his first demand—but as there was *no danger at first*, it still did not follow that there was *much* at the last application. In fact, Mr. Madison knew there *was none*. The real design, we shall show in our next.

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NO. XVI.

THE QUESTION OF MILITARY CONSCRIPTION, CONCLUDED.

WE have shewn, that the right of judging whether the cases in which the militia can be ordered out, exist, is vested, from the very nature of the limitation, in the Governors of the several states; and we have proved, that even if this right existed in the President, it has been, in the late cases, very unjustly exercised. We shall now say something more on this subject, before we consider the remedy for such an abuse, and the evil consequences which may follow from this abuse, if not duly restrained.

When the Secretary at War, and the President, were very properly pushed by the Executives of the northern states, to state, precisely, the nature and extent of the danger of *invasion*, they replied, that war having been commenced, there resulted from the *very fact of war*, a danger of invasion. If any other evidence of such danger existed, it would have been easy to state it—indeed it would have been obvious to the whole nation.

But knowing that no such danger existed, they preferred to rest their claim on the simple existence of war, a war declared by the United States themselves. We shall not enter into the question, in this place, of the justice of the war, nor of its being an offensive, not a defensive, one. We simply ask the good people of this state, whether the mere existence of a *war* is a sufficient ground to authorize the President to call out the militia! According to this monstrous and novel construction, the constitution should be read, that, "Congress should have power to call out the militia to execute the law, repress insurrections, and in any wars in which the United States may be engaged."

If the framers of the constitution intended this, they adopted the strangest expressions in their power.— Nations may be engaged in wars of ambition—of foreign conquest; they may carry their arms to the remotest quarters of the globe. If it was their intention, that whether invasion was or was not threatened, but merely because, in all wars, invasion might *be possible*, the President should have an unlimited power over the militia, they certainly expressed themselves very awkwardly, when they authorized Congress to order out the militia, to “*REPEL INVASIONS.*”

According to the new doctrine, a war declared against Tecumseh or the Dey of Algiers would give the President a control over the whole militia—and this not only during the existence of the danger of invasion, but during the *whole war*. For, according to the reasoning of the secretary of war, so long as the war lasts, there is, from the nature of *war itself*, a possibility of invasion—and the President being the sole judge of this danger, the militia may be kept in service *during the war*. Words or arguments cannot make this point clearer. If to “*repel invasion*” means the danger of *possible* invasion when there is no *probability* of it, and if the President is the exclusive judge upon this point, then the limited powers of the constitution are of no avail, and the President is the absolute commander of every man in the United States, and may keep him in service so long as he chooses to have a war on foot with any nation, from the meanest tribe of savages to the *conqueror of Europe*.

We now enquire, *sixthly*, whether if the absurd doctrine should be maintained, that in case of *restricted* powers, the delegate shall be the exclusive judge of the extent of his powers, and if Congress may decide, whether the cases provided for by the constitution do or do not exist, still if the people should be satisfied that they surpass their authority, and abuse their trust, there is any better remedy than for

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the Executives of the several states to refuse to order out the militia?

There is *one* other remedy, and that is, for the individual soldier to resist—and if attempted to be forced into service, contrary to the constitution, to kill his assailant, or to collect his friends to rescue him.

Every man will admit that this remedy is a dreadful one; and yet it must be granted that the militia, not being voluntary soldiers, ought not to be forced into service, to be compelled to change their habits and become mercenary soldiers, during a whole war, as may be the case, without *any* remedy.

Even if the President, therefore, is the exclusive judge, which we deny, still in case of a gross abuse of his power, such as in the present instance in declaring that the United States is in danger of invasion, when every man knows and feels that they *are not*; we see no better, more quiet, or constitutional remedy than for their superior and immediate commanding officer to refuse.

He takes, to be sure, a solemn responsibility upon himself;—but if he acts honestly, and prudently, and coolly, he ought to meet with the support and confidence of those whom it is his duty to protect.

Our most excellent Magistrate has taken this course—and he has availed himself of the admirable provision of our constitution, by requiring the opinion of the judges of our own supreme court, which, so far as respects all citizens of Massachusetts, must be considered *as the law*.

Indeed, what man of common sense will dare to say, that *actual* invasion has existed, or that *great* and *imminent* danger of it which would authorise the Governor, to tear the husbands, fathers and sons of our industrious yeomanry from their families, to sickening, to bleed, and perish in the camps of an army waging a war of ambition and conquest.

We shall now state, in conclusion, some strong reasons why this demand upon the militia is unreasonable.

ble, dangerous to the liberty of the subject, and fraught with most destructive consequences to the rights and interests of the people.

It is unreasonable, because Congress being invested with the whole revenue of the United States ; having power by direct and indirect taxes to take the last dollar from the pockets of the people—and having also the power of raising armies without limitation, and of maintaining them even in time of peace ; they ought not to declare war until they have provided the adequate means to *carry it on*. The case would be very different, and the feelings of the people of a different cast, if a foreign nation had waged war against us and had taken us, unawares.

To subject the people in addition to the sacrifices and losses of war—to its burdens and taxes ; to quit their farms and their occupations, and to render personal service in camps, subject to martial law, and without their having any option in the business, is very unreasonable.

Even if the war was necessary, still we can see no reason why it could not have been postponed until the armies were raised who were to carry it on.

We do indeed perceive, that if it had been delayed only six weeks, the great cause of it would have been removed, and probably Congress would not have been persuaded to declare it—we hope it was not *hastened* on that account, lest the repeal of the British Orders in Council should prevent the adoption of so desperate a measure.

The measure of ordering out the militia is dangerous to our liberties—because it is an assumption of power not granted by the Constitution—because when they are amalgamated and consolidated with the mercenary troops, the people will have no means of defence left to them against the ambition of a corrupt President—because on the principle on which they are ordered out they may be kept in service during the whole of any and every war which the Pres.

ident and a majority of Congress may see fit to declare.

The militia, according to this doctrine, will be at any and all times subject to *martial law*, without having voluntarily enlisted. They will bear all the *disgrace of defeats*, and will enjoy none of the honours or rewards of victory. There is no provision for their support in case they are wounded; and every disaster is charged to their want of discipline or courage.

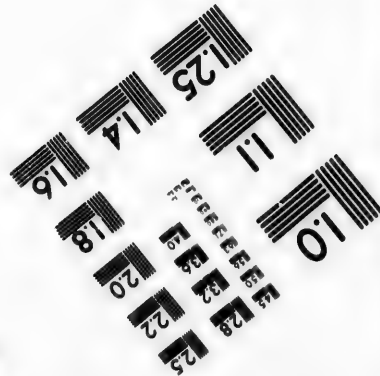
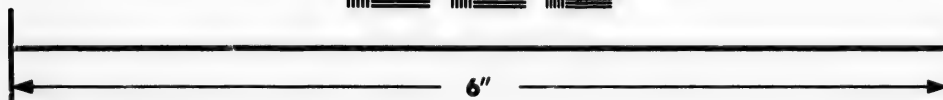
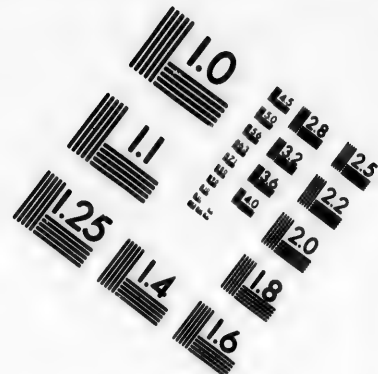
It is said the Governors may abuse this power of judging whether they will order out the militia. To this we have a short reply;—We do not know why it should be presumed that the Governors will abuse this trust more than the President. If however, a few of them should do it, it could not produce much injury to the United States, because the latter ought rather to rely on their own forces than on the militia. If a major part of the Governors should refuse, it would be a conclusive proof that the war was not a proper one. But if the President should grossly abuse his trust, the liberties of the people will be destroyed.

NO. XVII.

IN FAVOR OF A GEND'ARMIE NATIONALE, UNDER THE MILD
TITLE OF A LOCAL VOLUNTEER FORCE.

Quia plerumque inopes, ac vagi, sponte militiam sumunt.—TACITUS.

It is natural that men who for more than thirty years have been accustomed to regard the interests and wishes of France as considerations of great political weight—men who were unwilling that even our independence and fisheries should be secured without the consent of the French Court—men who have always had the confidence and have received the praises of the successive French ministers in our country



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—men who have been honoured with the rank and privileges of French citizens, and decorated with the cordon of the Legion of Honour—men who have made a negotiation with France, restoring her to all her ancient privileges, without obtaining the reimbursement of one dollar of the many millions placed in the Emperor's *caisse d'amortissement*—men who declared the French decrees repealed on the 1st day of November, 1810, which the Emperor on the 28th of April last flatly contradicted—men, in fine, who have now entered into war on the side of France, *formally* against Great-Britain alone, but substantially against Russia, Spain and Portugal.—It is natural that such men should become attached to all the French modes of *internal and external policy and arms*.—It was not, therefore, with *surprise*, though we confess it was with some emotion, we saw them attempt the introduction of the *conscription* laws of France against the plainest, most indisputable sense of the constitution.

We have frequently called this attempt of the President to coerce the militia, *conscription*—we will now explain why it is justly so called. The militia are enrolled *against their own inclination*—it is not a matter of choice, but necessity. They, however, were intended both in Great-Britain and this country only as a *local* defence, and not to supply the place of standing troops, especially for foreign conquest.—When, therefore, Congress draft 100,000 militia, they order them out without giving them an opinion—it is force, not inclination—it is necessity, not patriotism, which obliges them to go. If this be done in a case where the militia are not obliged by the constitution to serve, it is an attempt at usurpation—if carried into execution by force, it is tyranny.

The conscription laws of France are founded on the same principle.—The militia are drafted as with us;—the only difference is, that the draft is confined in France to the youths of nineteen years of age, a

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system, which, by withdrawing all the youth before they are qualified for any profession, destroys their morals, defeats their prospects in future life, and paralyzes the industry of the nation.

But even this demoralizing, debasing, corrupting, wicked example, is not without its charms in the eyes of the admirers and imitators of France in this country. It seems an army of recruiting officers were attempted to be sent to entice, corrupt and kidnap our sons and apprentices—Measures were in contemplation, though checked by the Senate, of a nature, of a severity which the people of Britain will not endure. Apprentices, cannot in that country be enlisted, and even in the *sea* service, the *great bulwark* of that nation, where if any thing would justify the breach of private rights, the importance of maintaining their maritime power would do it, apprentices cannot be taken during the *first three* years of apprenticeship, and during the remainder, the master is to receive their wages. But *here*, freedom—emancipation—*wages* were intended to be offered as the means of seduction to the sons of our farmers and the apprentices of our mechanicks.

There is but one point in which the comparison between the French and American conscriptions does not hold.

The conscripts are *there* collected by the *gen d'armie*, *chained*, and sent to the depot, or rather driven as we drive cattle.

In this country we have, as yet, been deficient in that part of the machinery of internal police, the *gens d'armes*, and the *local volunteer force* is precisely to fill this gap.

After this shall be complete, Congress will laugh—Mr. Madison, Dr. Eustis (he knows well *why I mention him*,) and Gen. Dearborn, will *sneer* at the refusal of the militia or opposition of the local Governments.—*Next* year, unless we defeat the project instantly, next year our militia will be drafted without

the consent of the Governours, and will be marched *chained* to the place of rendezvous.

Do not let people startle at this prophecy, or consider it a bold, unwarrantable thing. It is not more against general opinion, than a prophecy we made two years ago, that we should adopt the *Continental System*, and enter into a *war* on the side of France.

The fall of Roman liberties, when Julius Cæsar obtained the command of the armies of both Gauls, was not so probable as a *civil war*, and the destruction of our liberties from the organization of this Prætorian band—this *gens d'armes* in the *midst of us*—this local, pensioned corps, I care not whether you call them “Sicaires, Guards, Presidential Janizaries, or Local Volunteers.”

I shall say something about their resemblance to the *gens d'armes*, and about their unconstitutional, dangerous alarming character—and give a few hints as to the remedy, or barrier against this arbitrary stretch of power.

The *gens d'armes* of France amount to about 400,000 men, in a population of 35 millions.

The *gens d'armes* of Madison, the *volunteers*, amount to 50,000, in a population of 7 millions, so that the proportion, which our police spies and guards bear to the whole people, is more than twice as great as that of France.

The French *gens d'armes* are sufficient to keep the people in a state of abject slavery—Our *gens d'armes* ought of course to be still more competent to the same object.

The French *gens d'armes* are selected for their zeal and fidelity to the Emperor—Ours are selected in the same manner. It is only the *most bitter*, and *violent*, and *persecuting*, and *blind* friends of administration, who offer themselves, or are accepted.

The French *gens d'armes* are officered by the Emperor—Our *gens d'armes* are officered by the President. The French *gens d'armes* are scattered through

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the whole country—are always ready to inform—to check freedom of discussion—to execute the Emperor's will. Our gens d'armes are in like manner disseminated through the whole country to watch—to check disaffection, and obey their chief.

The French gend'armerie seldom or never fight a publick enemy—they live in and near home—lead an idle life, and draw great pay. Our volunteers, Mr. Madison recommends, should not be obliged to *leave home*—If the enemy comes to their houses, perhaps they might fight, but they are to be paid for living in idleness—paid for their *loyalty*—paid for their votes—paid for watching the opposition—paid for cutting their fellow-citizen's throats (if need should be) or if Madison should so order.

Our constitution recognizes but two species of land forces, regular troops and militia. So long as Congress confined themselves to raising *regular troops* by means of volunteer enlistments, they were perfectly right; only it ought to be understood that the volunteers formerly ordered to be raised, are in all respects *regulars*—and ought to be added to the standing army.

In this view, Congress authorized a standing army of *eighty-five* thousand men, to wit, 25,000 to be enlisted, and 50,000 to be accepted as volunteers. But as the latter have the same pay, are *officered* by the President, and are subject to *martial law*, to be shot for desertion or cowardice, I can see no difference between them and regulars.

For the same reason that men would not *enlist*, to wit, that they hate the war, and despise the degradation of *common soldiers*, a sentiment which we pray to God, our yeomanry may always feel, they would not volunteer.

What then is the scheme proposed? That volunteers may be raised, *officered by the President*, draw pay, and *stay at home*. An *imperium in imperio*

with a witness ! A mongrel breed of soldier citizens and citizen soldiers.

Can Congress raise troops upon *such* a condition ? Pay them for *not* fighting ?

We not only think this attempt dangerous to the citizen, but we think it subversive of the constitution. Congress may raise as many troops as they please, but it must be to form an *army*.

The mode proposed is only an insidious way of *destroying the militia*, or of getting the power of officering it, and commanding it from the several states, and vesting it in the President.

If Congress can accept 50,000, they can 500,000 volunteers. They are not bound to take even the 50,000, in due proportions, in the several states—they may accept them all in one state—they may accept 50,000 volunteers in Massachusetts. Where then would be Gov. Strong's command of the militia ? Where that of our Major-Generals ?—We do not object to Congress accepting the services of any men who will go forth to fight, and endure the dangers of the field. But we do deny its right to defeat the intent of the constitution, by transferring the *whole militia to the President*—by bribing men to remain at home, and prove disloyal to their own state governments.

My remedy would be, that the militia higher officers should insist on these volunteers doing militia duty—that the legislature should punish any officers, who shall seduce any militia from their ranks and duty—and also we advise a vigilant, jealous, and vigorous attention to arms, in the militia, *who are not corrupted*.

NO. XVIII.

RECAPITULATION AND CONCLUSION.

WE have now finished the remarks which we intended to make on the MESSAGE of the PRESIDENT—with what fidelity and success this has been done, the the PUBLICK must decide. We are aware, that in executing this task, much time has been consumed, and that the great and interesting topicks which that Message presented, have required more developement than it will be in the power of most readers to follow, with that undivided attention which their importance demands. Indeed we have a right to remark, that it is impossible, in a discussion divided and separated as it must be in the essays suited to our weekly journals, that any man can follow the chain of reasoning, and trace all the connections of it, without some general summary, which shall embrace and display the whole in a compact and simple form. This is the object of our present and last essay.

Our first object was to shew, that the apparent offers of peace and negotiation, on the part of our cabinet, were perfectly illusory; that they had no other foundation or design, than to quiet the fears of our citizens—to check the exertions of the friends of peace—to secure the election of Mr. Madison, and so to paralyze the exertions of the British ministry, as to prevent their taking any effectual measures to defend Canada, which it was hoped, by this artifice, would have been conquered before this time.

It was shown, from ample quotations, and, as we believe, arguments unanswerable, that such terms were proposed, as it was well known, from former negotiations, Great-Britain would necessarily reject; that even as a condition of a *suspension of hostilities*, preparatory to a negotiation, it was required, that

Great-Britain should, by an *informal* but *clear* and *incontestable* understanding, bind herself to yield the only question in dispute, a question from which Mr. Monroe declared she could not *recede*, especially from compulsion, when she had refused to recede from it by amicable negotiation.

We have shown, that through all the subsequent instructions of our cabinet, this point was pertinaciously adhered to, and that even in the last letter to Sir John Borlase Warren, it was repeated that hostilities would not cease until Great-Britain should agree, as a preliminary, to yield this most essential point of the whole controversy. We neglected, however, in our argument, to notice, one *most conclusive* proof of the insincerity of our cabinet, and of their belief that the offers they had made to Great-Britain, would be rejected. It shews a persuasion *apriori*, which goes to the absolute conviction of their insincerity. We allude to the refusal of the offers of Sir George Prevost, to agree to an armistice, a suspension of the shedding each others blood. These offers were made before *any answer* was received, as to the propositions sent to Great-Britain. They were predicated on the repeal of the Orders in Council, and *no cause of war* remained, but the subject of impressions. If our government had been sincere in their propositions through Mr. Russell, and if they had thought *they were such* as Great-Britain could or might accept—in the name of humanity—of honour—of fair and honourable dealing, why not agree to a suspension of the horrors of war, until the *ANSWER* could be received?

It must have been, because they expected the refusal, and they were afraid they should lose the “un-gathered” laurels of the Generals Hull, and Smyth, and Dearborn.

We have shewn, that the only equivalent offered to Great-Britain, was the exclusion of *British seamen* from our vessels in future; but what should consti-

tute a *British seaman*—whether a residence of one day, or of two years, in the United States, together with the mysterious operation of an act of Congress, and an oath before a county court, should transform a Scotch or Irish sailor into a genuine American—whether a bill of Mr. Wright, or Mr. Williams, should sever the *inseparable* allegiance which every man owes to his native country—whether any and what provisions should be made against a fraudulent abuse of naturalization, (not by our government, for that could not be presumed) but by the seamen,—were points which were left wholly untouched in the instructions and offers.

Nay, to render these vague proposals, if possible, still more untangible, Great-Britain was assured, that by our constitution, the President could make no stipulations for Congress.

If any one would be desirous of knowing what would probably be the temper of Congress on this subject, let him take with him the two following anecdotes, founded on indisputable facts:—Mr. Dana, of Connecticut, has, for three or four years past, proposed and brought in bills to require, that the merchant vessels of the United States should be navigated, in certain proportions, say three-fourths, by native seamen; and his attempts have been abortive. Last winter, a committee of the House, consisting of Messrs. Wright, and Pitkin, and Tallman, were appointed on this subject. The two latter having given an opinion in favour of *excluding British sailors* from our ships, Mr. Wright, who was opposed to it, being the chairman, never called the committee together afterwards, in order to defeat, as it was supposed, the project.

In fine, it may be asked, if any serious intention had existed to make this offer the foundation of a *peace*, why did not the President, who knew his own incompetency to make any stipulation without the consent of both Houses, recommended to them to pass a

law, in June last, conformable to the offers he was about to make? He had a precedent in the law relative to the repeal of the Orders in Council, and if he had gone forward to Great-Britain with a specifick and authorized proposition, guaranteeing her against the future loss of her seamen, there would have been at least the appearance of sincerity.

We then entered at large into the merits of this question, so much the subject of complaint, and so little understood. We shewed that Great-Britain disclaims the pretence of taking *American seamen*, and only claims the right to take *her own* subjects out of merchant ships, on the high seas, and in her own ports.

We adduced the most abundant authorities to shew, that by the consent of all nations, *allegiance* is perpetual—that it is not weakened or affected by *time*, *place*, or *swearing allegiance* to another power. That these are the fundamental principles of the common law of England, have been maintained by her courts and jurists from the earliest times, and of course, although *she naturalizes the subjects* of other states, she does not claim the right to absolve them, or to protect them against their own natural sovereign.

We shewed, also, that the same doctrine had been maintained in our own country, in the case of one Williams, tried for entering into the service of France, *even when we were at peace*—to which we now add the cases of Jonathan Nutting, and one George Batterman, convicted in this town, in the year 1794, for the same offence.

We then proved, that this practice of Great-Britain has been exercised by her ever since the year 1640, against all nations, and without complaint. We cited, also, a succession of French ordinances, from 1654 to the present war, shewing that France maintains the same claims over her own seamen, and executes them with more rigour.—We now add to the cases before cited, another ordinance of France, which

requires every armed cruiser to be furnished with an *able linguist or interpreter*, and directs that, without regard to passports or protections, he shall examine all the crews of merchant ships, which they may meet with on the high seas, in order that he may *observe whether they speak the language of the country to which they pretend to belong, correctly.*

Thus making the *ear* of a foreign linguist the court to decide the citizenship of a *neutral crew*. What becomes of Mr. Madison's sad complaint of the *cruelty* of erecting a midshipman into a judge?

We then entered into the impolicy of our waging war, for the privilege of employing *British sailors*. We said that it was contrary to the policy of all enlightened states, to give so much encouragement to foreign sailors, to the prejudice of *their own*; that that our naval power—our commerce—the superior protection which our own seamen would experience, by our abandoning this practice of covering foreign sailors, all invited us, honestly and fairly, to exclude them altogether.

We remarked, that Great-Britain was peculiarly situated. Her marine power was her only security against the horrible scenes which have been recently acted at Moscow. That the similarity of language afforded facilities, the higher rate of wages temptations to her seamen to enter our service, and that although *at present* her loss had not exceeded 20,000 or 30,000 men, yet if our *merchant ships* should become a perfect asylum to her *seamen*, the mutiny at the *Nore* would be a trifle to the danger she would run;—That the knowledge that they are liable to be impressed now restrains *her seamen*, and *that alone*.

We added, that even were it a *new case* in the law of nations, the extremity and importance of it would make her excusable, for insisting upon some remedy for such an abuse of our neutrality, growing out of our peculiar relative situation to her. We cited one example of a *similar acknowledged claim*, which was liable to as great abuses, and that is the right to take

from neutral merchant ships, the *persons of your enemy*—this includes the right of search for *persons as well as goods*—and if the neutral cannot cover or *withdraw* from a belligerent the persons of the belligerent's enemy, because by so doing, he deprives the belligerent of one of the rights of war, *a fortiori*, we asked, can such neutral cover or protect the subject of the belligerent captor, who is *more important to him*, because when he gets an enemy, he is always ready to exchange him for a subject?

We then entered into a full display of the famous negotiation of Monroe and Pinkney, with the Fox ministry. We demonstrated, that while there was the most anxious solicitude in that ministry to retain the good will of the United States—to remove all just causes of complaint—while such offers were made to prevent the recurrence of them in future, as, in our opinion, would do it more effectually, than the *plan proposed by Mr. Madison*, because we are satisfied that such abuses would soon creep in, as would oblige Great-Britain to recur to her former practice, *even at the expense of peace*—while indeed our own ministers were satisfied of the fairness, eligibility, and honourable character of these offers, her statesmen, the most friendly to this country of any who have, for thirty years, swayed the councils of that nation, solemnly declared, that no ministry, *under any emergency*, would ever dare to yield up the question of right.

It is then reduced to this simple question—Shall we fight for a shadow when we can have the substance? Shall we fight to compel Great-Britain to yield a claim older than our nation? A right exercised by France and all other European nations? A claim founded upon principles recognized and adjudged by our own courts? A claim which if *conceded* will make our country swarm with English, Scotch and Irish sailors to the great injury and depression of our own? A claim, which if yielded now, will certainly be resumed the moment the dreadful effects of its relinquishment shall be felt?

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We then made some remarks on the demand upon Governor Strong for the militia, and the intimation of the President that he had failed in his duty in not ordering them out.

We proved, that Congress have no sort of control over the militia except in three specified cases. That neither of these cases had occurred—that the Governor was the constitutional and sole judge on this point, and with his usual consummate prudence he had consulted the Judges, and with his accustomed firmness he had acted in pursuance of their advice and the dictates of his own judgment.

The People ought to feel grateful to him for thus breasting the danger in defence of the constitutional privileges of the people.

We concluded with some remarks which we deem of great importance as to the organization of a standing military force, under the name of volunteers, to reside in the midst of us, to the utter ruin, if it succeeds, of the militia.

We have now completed this arduous duty.—We cannot hope that the idle and the thoughtless will have derived much benefit from discussions which require so much and so constant attention. We appeal, however, to the sober and reflecting part of society—and by their judgment we are willing to abide.

We have endeavoured soberly, fairly and honourably to discuss the great question on which depends the peace and prosperity of the U. S. The question is a vital one. The vineyard is extensive and overgrown with thorns, and the laborours are few. If a most ardent love of country, a strong desire to promote its permanent and best interests, though the means of doing it are ungrateful to those who undertake it, entitle a citizen to the good wishes of the publick, we shall not rest without hope. If we fail in this, we shall have, what the world cannot take away, the testimony of a good conscience.

SOME GENERAL BRIEF REMARKS

ON THE CAUSES AND OBJECTS OF THE PRESENT WAR—ON THE ERRONEOUS OPINIONS TO WHICH OUR PARTIAL SUCCESSES AT SEA HAVE GIVEN BIRTH, AND ON THE DANGER, THAT OUR CITIZENS MAY BE DRAWN IN TO AID BY LOANS IN THE PROSECUTION OF A WAR, WHICH THEY DETEST.

NO man, who has paid even a moderate degree of attention to the policy of Mr. Jefferson and Mr. Madison, for the last twenty years (I mean since the beginning of the war between Great-Britain and France) can doubt, that the present war between the United States and Great-Britain, is the consummation which they have devoutly wished for. The author of the present essays has, for six years past, laboured incessantly to satisfy the people, that war with Great-Britain was the ultimate and darling object of administration, and that it must and would take place. It has always appeared to him to be totally indifferent to administration, whether there was cause of war or not, or whether it could or could not be adjusted by negotiation. The great labour on their part has seemed to be, to find plausible pretexts to keep the nation in a flame, to smother and conceal the injuries and insults of France, which would have counteracted their views against Great-Britain, and gradually to lead the nation to the precipice of war. How far many of the real friends of peace, by joining in the clamour against Great-Britain, by denying the intentions of the administration to enter into war, and by stimulating the pride of the partizans of government, may have unintentionally promoted the secret views of Mr. Madison, is a question I have no disposition to discuss.

I should not have even mentioned it at this time, if I had not been apprehensive that a game of the same sort is now attempted to be played off upon the friends of peace with respect to the navy.

One of the greatest obstacles to the general prevalence of the belief that our administration are absolutely devoted to the views and interests of France, and are bent upon the destruction of Great-Britain, has been the want of visible motive. While some zealous men have charged *even the heads* of the French party with direct bribery and corruption, sober people, seeing no evidence of this fact, and feeling shocked at what they considered a calumny, have been disposed to go as far the other way, and to doubt the existence of any bias whatever.

For ourselves, while we perceive as plainly as we do the course of the planets in the zodiack, the absolute and entire ascendancy of France in our counsels, we do not believe in the direct application of bribes to the higher minded men in the French interest.

We are astonished that people should doubt that there are motives vastly stronger than those produced by corruption. Corrupt men are never so zealous as enthusiasts who are honest in their intentions. What contests were ever so bitter—what party ties so strong, as those arising from religious feuds—from divisions about metaphysical points that neither party comprehends? What partizans were ever so devoted, so desperate, so constant, as the adherents of the unfortunate house of Stuart, who, not having the means of subsistence themselves, could not be suspected of bribery?

Grant, therefore, only, that a party in favour of France was once organized, I care not by what means, it will always find materials for its support and encouragement: obstinacy, pride, the spirit of rivalry, will confirm, and irritate, and increase a party once formed.

That such a party has existed, and still continues in most dreadful power and force, it would be almost as absurd to attempt to prove at this day, as it would be the height of impudence to deny. Who has forgotten the devotion to Genet, to Adet, to Fauchet? the attempt to force Washington from his neutrality? the clamour for war instead of negotiation in 1794? Mr. Madison's famous resolutions intended to drive the nation into war? the abuse of Mr. Jay and the President, for daring to preserve peace with Great-Britain? the humiliating submission of Mr. Munroe to the French Directory? the opposition made to Mr. Adams, when he attempted to vindicate the honour of the nation, trampled under foot by France, who insulted our envoys and demanded a tribute from the nation? These are things of elder time, and fit only for the historian. They prove not only a blind devotion to France in the present men in administration, but they satisfy us that it is a prejudice which has had time to strike its roots deep, and to send them out far and wide. Its nutriment has been at all times the honour and commercial prosperity of our country. These it has absorbed—on these it has thrived, until it has almost exhausted the fertility of the soil. Prejudices like these, are not easily, we may add, are never rooted out. Who does not know that when *we ought to have been neutral*, constant prayers were offered up, by these advocates of France here, for success to all her projects of universal dominion? Did France add a new victim to her

ambition? they applauded. Did Great-Britain meet with disaster in her stand against French power? they rejoiced as openly as the Gens d'armes des Tuileries. Did France exhibit a scene of internal anarchy—of horrors, at which the infernal legions of Milton would grow pale? they saw in them only the struggles of suffering Freedom. Did these French anarchists yield to the arms of a *military despot*, and groan under the most ruthless tyranny? they stood ready, with Gov. Gerry and Mr. Livingston, to praise the incomparable hero and sage, and to offer their incense to the successor of Robespierre whom they had before saluted as a god.

By *encouraging such prejudices* Mr. Madison rose to distinction. And if we should admit that a great mind like his, could easily shake them off, (which we doubt), still it is not in his, or any other man's power, to change at pleasure the feelings and opinions of a whole party. Attachment to France, an interest in French successes, and a hatred to Great-Britain, had become the religion of the party, and they were ready to go to martyrdom in defence of those opinions.

Under such omens, and probably himself as deeply imbued with the same passions, Mr. Madison came into power. Has his conduct always corresponded with this view which we have given of his feelings? It should be remembered that the French government, if it has not been in secret correspondence with these leaders, (which I doubt), has been, however, *perfectly well informed* of their feelings of dependence on France; of the exact state of parties—their strength—their wishes—their designs—their movements.

I beg any man who doubts this, to turn to any of Genet's or Adet's correspondence, but especially to Fauchet's intercepted letter. They know the strength and weakness of *every considerable man* in the United States.

Let it be here distinctly understood, that I exclude from my argument any idea of corruption.

With this knowledge of the state of parties, and of Mr. Madison's partialities and preferences, Bonaparte has put our President's patriotism and love for France to the most cruel trials. Would to God his patriotism had been any match for his love to France and hatred of Britain! But Bonaparte was sure of his game. The ministers successively sent to France, he considered as fair samples of the administration which deputed them. Who has forgotten Mr. Livingston's incense to the Emperor, and his undiplomatick attack on Great-Britain, with whom we were at peace, in his letter upon Drake's correspondence? Not a minister from any of the tributary courts could vie with the envoy of the United States in the submissiveness of his reply.

Yet Mr. Livingston was the best of the three ; and would not have been fitted for the dark projects for which Mr. Barlow was probably sent—to negotiate the conditions of alliance, and submission to the continental system.

Now what has Bonaparte done, and to what have our administration submitted, without resistance, and *even without complaint*, if we except a sentence or two in every philippick against Great-Britain, just calculated to deceive *those only who wish to be deceived* ?

We cannot give any detail ; the time and occasion will not allow of it. We shall only hint at what all the world knows ; the facts are both notorious and recent.

In 1806, Bonaparte, having by the conquest of Prussia, got as he supposed, the command of the continent, determined to destroy a rival whom he could not reach by arms, by the destruction of her trade. So far as respected the continent, the plan was easily accomplished. But to make the experiment complete, the cooperation of the United States was indispensably necessary. That cooperation has been obtained from the year 1807 to the present day, but never so completely as he demanded, till we entered into the war. How this has been brought about, the world can never know. What menaces, how much intrigue, solicitation, what promises of *personal support to administration*, if any, can never be known.

We can only judge of publick facts ; and from these we infer, that Bonaparte knew that he was so inseparably connected with the power, and so riveted in the affections of his party here, that he might put them to the severest trials without endangering their loyalty. The Berlin decree subjected every American vessel to capture going to or from a British port. Instead of resistance, not even a remonstrance was made to this act. It has been justly observed in the resolutions of New-York, that our government having assigned the British orders in council as one of the *just causes of war*, have admitted that the Berlin decree was also. How then can they justify themselves for submitting to it ?

But Bonaparte found his Berlin decree ineffectual, and he accordingly negotiated with Armstrong an Embargo—or rather a monstrous thing, misnamed an Embargo, which was permanently to cut off our trade with Britain. That this was settled at Paris, and *merely adopted very loyally by Congress*, is proved by the report first reaching us from Paris and Holland. Many merchants in this town got knowledge of the proposition from Europe before it had been even whispered here. On the arrival of our messenger, Dr. Bullus, who reported the declaration of the Emperor, “that he

would have no neutrals," the embargo was hastily adopted. The representatives of a great commercial nation, afforded the astonishing example of the sacrifice of a whole people to the caprice of an European tyrant! The patience of that people was beyond all example, and can only be accounted for by the astonishing influence which France has acquired over a certain portion of them. The dangers to which our commerce was exposed, were the pretexts for that measure. And yet every man of sense knew that at that very moment our vessels could have been insured to Great-Britain for five per centum, and to India and back for eleven. In short, insurance was at *peace premiums*!!

But even our patience at last had its bounds; and after eighteen months proof of our disposition to aid France, government was compelled to yield up the *Emperor's favourite* measure, though to appease his rage a Non-Intercourse with Britain was substituted. Tyrants, accustomed to obedience, are not so easily appeased. The Emperor's rage broke out in every species of insult and contumely, as well as injury.

In language, by a letter dated February 16, 1810, he told us, "the Americans cannot *hesitate* as to the part which *they are to take*. They ought to tear to pieces the act of their Independence, or to take measures to prevent their commerce being taxed by England, which renders them more dependent than the colony of Jamaica, which has at least its assembly of representatives, and its privileges. Men without political views, *without honour, without energy, may allege, &c.*"

Though some little symptoms, transient publick symptoms of sensibility were discovered on this occasion, yet no apology has ever been made, and the subject was suffered to slumber in oblivion, never again to be revived.

But the rage of his Majesty did not evaporate in words. In defiance of the *laws of all civilized society*, by a decree at Rambouillet, he confiscated all American vessels which had entered his ports at any time within six months *next preceding* the decree. Of the amount of this plunder, we have no other evidence than the declaration of Gen. Armstrong, who knowing the Emperor's character, said there was no hope of restoration, as the amount was twenty millions of dollars—a sum too large to restore even to the rightful owners!! About this period too, the Emperor invented a *new mode*, (as Jefferson mildly characterized it), "of exercising *might contrary to right*." In violation of the settled principles of maritime law, his cruisers had orders to burn on the high seas all neutral vessels whom they should find trading with the enemy. This practice has continued down to the *present year*. The very

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last French squadron which scoured the seas, Feretier's, was more ferocious than any former one. This was the *last gentle* hint to our delaying counsels. This was the immediate precursor of an alliance with France, and a compliance with the Emperor's views. Could it be believed if we had not seen it, that a President, who upon every occasion presents the whole picture of British wrongs, including *those settled and compromised*, as well as others, should have neglected for seven years to mention in *one single instance* to Congress, these reiterated acts of piracy of France?

But the darkest, and most dreadfull part of the picture of partiality for France and contempt for our understandings is to be exhibited.

In 1810, the United States having offered to withdraw their restrictive measures from either of the two nations which should cease to violate our neutral rights leaving them in force as to the other, the President declared solemnly that it was not his intention to give France this benefit until she not only should repeal her decrees but should restore the property "*unjustly surprized in her ports*." I use his own words.

Nevertheless upon the Duc de Cadore's promise, conditional promise, that the decrees would be repealed on certain terms on the first of November, 1810, though accompanied with a declaration that the "property unjustly surprized" would not be restored, the President, directly against his own assurance, declared the decrees *actually repealed*.

Though proof heaped upon proof in the course of the succeeding winter, that the decrees were not repealed—though their execution on the high seas was not even suspended, yet administration proceeded to enforce the act against Great Britain, and to swear to the good faith and honour of France. Nine months after the pretended repeal, Mr. Russell begged the French minister to give the United States *some* proof of their repeal, and told him that he kept the John Adams waiting for *some* evidence to justify the liberal credit which our government had advanced to the Emperor. None could be obtained, except the release of two ships *which did not come within the decrees*. Against their repeal we had evidence the most abundant; and we had most direct proofs that Bonaparte had resolved we should take more active measures against England, than a new pacifick Non Importation.

Mr. Tureau told our government, in December, 1810, "These modifications (of the French trade) will not depend on the chance of events, but will be the result of *other measures*, firm, and pursued with perseverance, which the two governments will *continue* to adopt to withdraw from the vexa-

tion of the *common enemy* a commerce necessary to France as well as the United States."

Here we find the *war predicted and demanded*. The Non Importation and pretended repeal of the decrees, were, it seems, the *concerted measures* of the *two governments*: But the Emperor's favour would depend upon our *continuing* to adopt stronger measures against the common enemy. Nor did the Emperor leave us to doubt whether Tureau was authorized to hold such a language. The Duc de Cadore, in the presence of his Majesty, on the third of December, declared, that "as long as England shall persist in her orders in council your Majesty will persist in your decrees." And in March following, in an address to his Council of Commerce, the Emperor in person said, "The decrees of Berlin and Milan are the fundamental laws of my empire. I will favour the American commerce if they will conform to my decrees, otherwise I will chase their vessels from my empire."

This was four months after Madison declared the decrees repealed. But the Emperor did not confine his contradiction of Mr. Madison to words. On the fourth of July, 1811, (the day of the declaration of our Independence) the ship Julian was captured on the high seas, and on the tenth of September following was condemned, "because she had been visited by British cruisers." The Emperor in person condemned in September, 1811, four vessels, which had been carried into Dantzick for offences which were created by the decrees, and by them alone. And our agent, Mr. Russell, in his letter to our Secretary of State, dated May 8th, 1811, six months after Madison's proclamation of the repeal of the French decrees, states, "that it may not be improper to remark that no American vessel captured since November 1st. 1810, has yet been released."

One would have thought the climax of our disgrace had been reached—that the measure of humiliation was full—but we were reserved for still further disgraces. In May, 1812, the Emperor published a decree bearing date April 28th, 1811, in which, reciting our obedience and loyalty in excluding British goods and admitting his, he declares *on that account* his decrees repealed so far as regards us. Thus giving in the face of the whole world the *lie direct*—the *lie without apology*—the *lie* without circumlocution to all the declarations of our government, as to the repeal of the French decrees in November, 1810—cutting up also by the roots the foundation of all our statutes against Great Britain, the last of which was in March preceding the repeal of the French decrees, and which were founded on her refusal to believe the decrees repealed

in November. The main reason for which we went to war with Great Britain was, that she would not repeal her orders in three months after France repealed her decrees, which she was bound to believe took place in November, 1810. Now Bonaparte justifies her incredulity, and accuses Mr. Madison of rashness and folly.

The manner of doing this last act has something extremely wicked and suspicious on the face of it.—That Bonaparte, when so often urged and solicited to furnish the evidence of the repeal of the decrees, should have kept back, for 12 months, a decree affecting *only us*, and necessary to the vindication of his constant friends in America, is extraordinary. It matters not whether it existed at its date, or was antedated. In either case it was kept back till he was satisfied that we had come to the *striking point*. It was kept back until it was impossible it should produce an operation in England, and that operation be known here before the war. It was well known to France and America, that the word of Great Britain had been pledged to repeal her Orders in Council as soon as France should repeal her decrees. It is a word never lightly given, and never forfeited. Can any man have charity to believe that this almost simultaneous repeal of the decrees—of the Orders in Council, and of the declaration of war, was the effect of accident? In short that it was not the “result,” as Tureau says, “of other measures which the two Governments have *continued* to take against the common enemy?”

Let any doubting man look at the Emperor's publick declaration in March last, that “his decrees should be the fundamental laws of his Empire, until the principles of the treaty of Utrecht, shall be recognized by Great Britain.”

Let him look at the refusal of our Government, to make even an *Armistice*, after the total repeal of the Orders in Council and all other blockades.

Then let him say whether this war is not a fulfilment of the reiterated demands of France, to enter into the coalition.

Let him consider how admirably it was timed for the interests of France—how it cooperates with her views upon Russia and Spain, by making a serious diversion of the British forces at this most critical juncture, which the world has seen for 20 years, and then let him soberly ask himself, whether the war is carried on for French or American interests?

It is not one of the least evils of this unnatural and unjust war, that the noblest virtues of the citizen may be converted into the means of favouring the views of the Administration, and of prolonging the duration of the war. It is impossible

for a generous mind not to view with the highest feelings of approbation, the gallant efforts of our naval officers and seamen. That unconquerable spirit, that self devotion, that skill and coolness which have rendered the British marine so superiour to that of all other nations, have been displayed in the highest degree by our infant NAVY.

But a reflecting man, who is sincerely desirous of seeing peace restored to our Country, cannot but perceive that an artful administration will convert this natural and generous enthusiasm into the means of promoting their own views. Already we are told by Mr. Madison, with a triumphant air, that our naval victories "will dispose Great Britain to peace, and that our *prosperous* career may be *accelerated*, but cannot be *prevented* by the assaults made upon it." See his last message covering Decatur's letter.

It is because we believe this proposition absolutely false—that the reverse of it is true, to wit, that our naval successes will procrastinate the period of peace, and render all attempts at negotiation, while this state of things continues, abortive. And because we fear, that some men may be led to believe that Great Britain can be humbled on the ocean, of which there is *as little* prospect as there was when the war was declared, that we deem it a solemn duty to make some remarks upon the subject.

We think it proper to premise that we have never doubted, that our Country was capable of producing excellent officers and sailors.

The same causes which have rendered the British marine hitherto so superiour, operate as powerfully in our favour.—We have the same hardy courage—the same enterprise—the same skill.

We have been of opinion that a marine force was our natural defence, and ought to have been fostered and encouraged. We have never believed that even British ships, conducted by their ablest officers, would be an over-match for ours, in vessels of equal size, and especially where we should have a decided superiority of force.

But though such are our opinions, we think we are in some danger of falling into two errors on that subject, one of which is disreputable to us as a brave and magnanimous nation, and the other may be of fatal consequence.

The first is, a boastful, sanguine and overbearing temper. The officers of our Navy have too much of the true spirit of brave men to fall into this error. They know too well the character of their adversaries to undervalue either their bravery or their skill. You will never hear any of the most experienced among them utter such idle boasts, as that "man for man

and gun for gun," we shall always beat the British. They know that in two out of three of the contests which have taken place, the superiority of force on our side was such that while it would have been disgraceful for our officers to have been beaten, no degree of reproach could attach to the foe whom they subdued for yielding to the most powerful single decked ships in the world.

We feel a perfect confidence, that such men as Decatur, Hull, and Jones will agree with us in every proposition we shall advance.

The opinions and sentiments to which we allude, and which we think reprehensible, are those of hasty men, who draw inferences from single examples which they certainly do not warrant.

You hear them every day declaring that one of our large frigates would capture a British 74—that we have wrested the Trident of Neptune from Great Britain—that we shall always be superior to them in single ships.

To hear such persons discourse, one would imagine that they were astonished to find we could beat even an inferior British ship—that they had believed us incapable of meeting the Europeans in equal conflict, and that they were so transported and surprised by the unexpected success, that they now believed the age of miracles had returned, and that the British banner was no longer to float upon the ocean.

Enthusiasm has its uses, but it may produce its evils. Little as they may believe it, the chances of war may turn, and the mortification and chagrin is always in proportion to the previous exultation. We had a recent and terrible example in the case of Gen. SMYTHE. The man who presented himself as a conqueror, with such a ridiculous gasconade, three weeks since, is now exhibiting his excuses to an unauthorized association on the frontiers of New York. His soldiers are breaking their muskets in pure mortification, and his officers their swords.

If indeed success should *always* follow our Navy, still one evil would result from this boasting spirit, it would diminish the glory of victory.

We trust, however, and believe that this extravagant and bombastick spirit is not a very general one. That while we cherish and honour and reward the gallantry of our Navy, we shall and do imitate their modesty, and their justice towards the vanquished.

The frible which we have first been considering, is only a small blemish, and would not be productive of any serious consequences.

The other opinion advanced by Mr. Madison is a serious one, and deserves a thorough consideration.

Is it true "that the capture of five or even ten British frigates will dispose *Great Britain to peace*, and does this sort of contest "accelerate our prosperity," as Mr. Madison says?

If these successes will dispose her to peace, it must be on the ground upon which Mr. Madison seems to have rested his hopes, and that is that it will satisfy her that we are a more formidable nation on the ocean than she thought us, and that if the war is continued we can wrest from her the Trident of Neptune.

Now let us consider this point—Great-Britain has a territory about as big as the New-England states. She never would have attained to a primary rank among the European nations, if she had not cultivated and encouraged a navy. Her insular situation renders it necessary that she should maintain one. She owes her liberties to that, and that alone—These propositions are as obvious to her as they are to us.

Can it be believed, that she will surrender her maritime superiority? Will she make peace, while her arms are tarnished with the stains which we have imprinted upon them? Will she not say, "my navy is my only defence, it must not only be superior, but its reputation must be unimpaired?" "However disposed I might have been to make peace with America, I cannot do it till this disgrace is wiped off."

Will any man doubt her power to do this? Is there any one so prejudiced as to believe, that she cannot rouse her citizens to fight with as much gallantry and skill as ours?

We are the same people—have the same general features of character, and though we have not degenerated, I see no reason to presume that we have improved on the original stock.

We have seven frigates, and four or five smaller ships—She has 200 ships of the line, 250 frigates, and three or four hundred smaller vessels of war.

It is in her power to send a squadron of line of battle ships, to destroy our marine, without a contest.

If Bonaparte, starting with the old marine of France, of Spain, and Holland, comprizing nearly 200 ships of the line, and devoting yearly to his navy alone 150 millions of livres, 30 millions of dollars, (amounting to the whole of our war expenses, for both army, navy, and civil list) has been unable, during twelve years, to make the smallest head against the British navy, can we expect to do it with our little squadron, and without any revenue but loans?

It is said, however, that we are a different race of men from

the French and Dutch. *We can beat Great-Britain, though they could not.* Both France and Holland have obtained as many and more signal victories, in single ships, over Great-Britain, than we have done. Nay, they have been more formidable rivals to her than we could possibly become in many years. And yet the *consciousness of the absolute necessity* of her navy to her existence, has made Great-Britain rise superior to all her enemies or rivals.

It is impossible, from the constitution of human nature, that you can ever rouse a nation to so great exertions, for a question on which its existence does not depend, as for one upon which it does. Hence nations will not fight as strenuously in foreign wars, in wars of conquest, as in wars of self-defence, and when their fire-sides are invaded.

Now, though our marine is important to us, it is by no means so vital an interest, as it is to Britain. To us it guards important rights, and produces a security to a trade necessary to our opulence—with her, it is the bulwark which defends her temples and her fire-sides.

Our farmers, though they would maintain a respectable navy, would never be taxed to support 150 ships of the line, and 200 frigates, which, at the rate of the expense of our present navy, would cost, for their first equipment, 150 millions of dollars, and, for their annual support, 50 millions of dollars per annum, at least.

I cannot perceive, then, that the capture of twenty British frigates, nor the building of ten 74's, would the more dispose Great-Britain to peace; nor does any sensible man believe it. On the contrary, it will *render peace impossible*, until Great-Britain shall have put at rest the question of naval superiority, and have vindicated the injured honour of her flag, which every coal-heaver in the nation will feel to be a wound in his own honour—Much less can I perceive, with Mr. Madison, how the capture of a few British frigates, followed up, as it will be, with the blockade of our ports, and the destruction of our navy, accelerates *our prosperity*.

ON THE SUBJECT OF LOANS IN UNJUST WARS.

In just and necessary wars, it is the duty of all good citizens to contribute according to their means. Whether their personal services in the field—their councils in the cabinet—or their money be required in the treasury, they ought to render them with alacrity. If, however, the war be such an one as, in their consciences, they cannot approve, it is equally their duty to withhold every thing which the government cannot by law command.

This duty is the more imperious, if the war is of such a character as tends to destroy the commerce, and injure the rights and interests of that part of the country to which such citizens belong.

It is evident, that one of the most embarrassing impediments, which our administration encounters, is the difficulty of finding resources to carry on the war.

Mr. Gallatin, for three years past, has calculated on loans as the means of supporting the expenses of war, and he has attempted to deceive the money holders, by stating, that in the peace which must necessarily succeed to all wars, the revenue will always be sufficient to pay the interest of the debt contracted during war.

The government dare not resort to direct taxes. The war has alienated already all the northern states. Taxes would complete what is begun, and administration would be left without support.

Under this view of our affairs, the men who are opposed to the war, and at the same time loan their money necessary, absolutely necessary, to its continuance, are as much responsible for its consequences, as any of those who voted for it.

We know how hard a struggle it is for those who have been accustomed to regular increase of capital, to suffer it to lie in an unproductive state. It is not, that, by letting it lie idle, they make any real sacrifices, in any degree, in proportion to what other citizens suffer; but it is hard to control a powerful passion.

We are aware, that patriotick motives are cold and inoperative against the seducing and tyrannical influence of a love of increase and gain; but we would say a word or two as to their interest.

Does any one recollect in history, any war to be compared to that which now deluges Europe with blood? Will any statesman undertake to predict the period of its termination? Are there any rational data, by which we can suppose that our war with Britain will have a speedier termination?

The annual expense of the war, for the next year, is estimated at 32 millions of dollars. The deficit, to be supplied by loans, will be 20 millions. When the army is full, the annual expense cannot be less than 50 millions, and the revenue will not exceed five millions. How long will it be at this rate, before the monied capital will be exhausted? Will the interest of the debt be paid after the loans cease? Or will the southern people throw away the *pearl*, after they have squeezed the orange? Will they tax themselves, to pay a debt of honour to those "wretches of the north," as they have lately

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called us? I trust our capitalists have too much good sense and publick virtue, to lend their money to support such a cause—to support a cause calculated to effect their ruin—If they do, they will fall unpitied.

It should be remembered, that the southern statesmen opposed the funding of the debt of the revolution, and that in the late loan of thirteen millions, the southern states, which voted for the war, have subscribed but one million, and most of them not a dollar.

There is no country on the face of the globe, where the monied interest has so little political influence as in ours, or where it is so much the object of jealousy and hatred. The southern states despise and detest it, because they have no participation in it, and because it offends the aristocratick pride and pretensions of the planters and slave-holders.

In New-England, our farmers have something of the same feeling. Who have hitherto supported the banking and monied interests of this country, and the credit of the publick funds? Men of talents and political information and influence, who were in *no* degree benefitted personally by the protection given to capital. To Hamilton and Ames, in an especial manner, were the capitalists indebted for the security and protection they have received.

But can the capitalists calculate upon the support of *such men*, in future, for the loans which they may *now* make, to enable administration to carry on a war ruinous to the commercial state?

I should suppose they would as soon vote pensions to Seaver, and Porter, and Mr. Madison, the authors of the war, as they would funds to pay the interest of loans, expressly opened to enable the government to carry on a war, destructive of the interests of the northern states, and blasting to the hopes of all the young men of talents in these commercial states.

There is one other important idea which I wish to suggest on this subject.

Madison and Gallatin have too much wit for our monied men. They probably reasoned thus—"Let us plunge into this war. It will destroy external commerce; it will destroy property vested in wharves and stores, and other conveniencies necessary to foreign trade. The banks will diminish their discounts. The rate of interest will fall. The anxious spirit of monied men will be sharpened in proportion to their losses. They will be coy at first, and make a bluster of their principles, but they will finally yield. If they make the most solemn resolutions not to subscribe to our loans, still they will buy into the stocks, and that is precisely the same thing to us.

No man can stand the temptation of six per cent. when he cannot get more than five in other employments. It is beyond human nature to keep capital wholly unemployed during a war without prospect of end. To be sure, the debt will amount during the new term of presidency, to two hundred millions, and to be sure a peace revenue will never defray the civil list and the interest of this debt; but after we have reduced these northern purse-proud gentry to the condition in which they were in 1787, we shall leave it to the wisdom of Mr. Troup and Bibb, and the other gentlemen of the south, whether it is expedient to manage these capitalists any longer, after we have attained all our objects of them. Let us wipe off the old score, and let these northern hives begin to gather their honey anew."

It is *curious*, but not more curious than true, that the very measures which impoverish, and perhaps were intended to impoverish, our merchants, our banks and our insurance offices, also render our remaining *capital unproductive*; and by those very means favour the views and facilitate the projects and loans of Administration.

The same effect is calculated upon to recruit our armies. Mr. Madison says our farmers are too happy and too rich to enlist. The war, he thinks no doubt, will make them poorer; and they will soon be glad to sell themselves cheap to the lashes of the serjeants, and to subject themselves to the diseases and horrors of the camp.

Thus publick misfortunes and private distress are the nurtriments of the war, and the means upon which administration may coolly and wisely calculate to forward and accomplish their views.

There is one other thought, which men are afraid to examine, because it is too alarming. I mean the possibility of a settled design to subdue the refractory spirit of the Northern States by the sword. If we had not the direct threats of Mr. D. R. Williams and others, if we did not know, that it is the private, every days conversation of these warm bloods of the south, that they will teach Governor Strong and the governors of the other Yankee States their duty, and the necessity of obedience, surely the creation of a gens d'armes, a volunteer force in full pay, and to be permitted to stay at home, recommended by Mr. Madison, ought to excite the attention and jealousy, if it does not the *fears*, of all prudent men. I have no doubt that designs are seriously formed by some southern people, to subdue by force, the majorities of the north, who are opposed to them. Is this the time to lend

them our money? Would it not be as prudent and judicious to keep it for ourselves?

We have said, the revenue will be insufficient to pay the interest of the debt, if the war lasts, which it probably will four years more.

Let us make peace how and when we will, we are never again to be a *neutral* state between two great belligerents. If we make peace with Britain, we shall be at war with France and the continent. If there is a general peace, we shall be excluded from the profitable trade of all the world, for each nation will restore its system of monopoly.

Besides, the habits of smuggling have taken such deep root that they can never be eradicated. The encouragement given to manufactures by the war, will also lessen our importations. We shall never again in twenty years see a revenue of twelve millions of dollars. The peace establishment of army, navy, and civil list, will consume eight millions at least. How is the interest of two hundred millions of new debt to be paid? As long as you lend, they will pay you the interest, but not a moment longer.